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LAW AND STATUS AMONG THE KIOWA
INDIANS

MONOGRAPHS OF THE
AMERICAN ETHNOLOGICAL SOCIETY

I

JANE RICHARDSON

LAW AND STATUS
AMONG THE KIOWA INDIANS



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The material for this study was gathered in the summer of 1935 by the Ethnology Field Study Group of the Laboratory of Anthropology of Santa Fe. The members were William R. Bascom, Donald Collier, R. Weston LaBarre, Bernard Mishkin, and the author, under the direction of Dr. Alexander Lesser. I wish to express my deep gratitude to the Laboratory for this invaluable opportunity to enter upon field research; to the four other students for cooperation and pleasant companionship; and to Dr. Lesser for able guidance and stimulation. The field notes gathered were organized and pooled so as to be available to all of us. I am therefore drawing on material to which I contributed only a fifth part. At first it was planned to bring out a general monograph on Kiowa culture with certain chapters written by each of the students. Once this was published, special studies such as law, etc., were then in order. However, time has passed, crammed with the exigencies of theses, examinations, etc., all of which have delayed the Kiowa monograph. When the opportunity to publish this part of the material presented itself, the group generously gave its permission to abandon the original sequence. To some extent this essay presupposes a general knowledge of Kiowa institutions. A sketch of the culture is incorporated for orientation, but an adequate description of kinship relations, family structure, religious organization, etc., could not be included at this time. The case histories can be properly read only with this complete background. Eventually they will provide vivid documentation to complement the general material.

The cases were gathered from eight or ten old informants through interpreters. They are presented with as little editing as possible, practically as they came from the translator's lips. There are unfortunately many serious gaps. We were often sure that we had only part of a story, that motivations were obscure, and relevant behavior omitted or forgotten. It is also regrettable to find in the text such unspecified words as "uncle". Sometimes this is due to the failure of the old informant's memory, sometimes to the interpreter's inadequacies, but often to the inexperience of

student ethnologists. We always sought different versions of a case for checking and amplification. These I have combined into a single story except where versions differed so markedly it seemed wiser to give all of them. Therefore the longer histories are in reality a core of events whose sequence has been checked against several informants. The different details contributed by each version are all incorporated for the sake of vividness and completeness. There may be obscure points, but at least I have put down all the information given by informants on these cases. Future analysis may reveal links at present unperceived.

In the preparation of the manuscript I am especially indebted to Dr. Ruth Benedict, Dr. Karl N. Llewellyn, Dr. Alexander Lesser, and Dr. Gene Weltfish for guidance and criticism. Dr. Ralph Linton and Dr. Wm. Duncan Strong were also of great assistance. To these members of the faculty of Columbia University are due what merits the study has. Dr. E. Adamson Hoebel and Miss Jeannette Mirsky were kind enough to permit perusal of their research material. However, it is to the distinguished elders of the Kiowa tribe and our cooperative interpreters that our greatest debt and homage are due. Without their patient and earnest efforts, this record, such as it is, would not now exist.

TABLE OF CONTENTS

	<i>Page</i>
I. INTRODUCTION.....	1
II. BACKGROUND OF KIOWA LIFE.....	5
Economic and social groupings.....	5
War activities.....	8
Sundance.....	9
Ten Medicines.....	10
Status	12
Sanctions	16
Table of Conflict Situations.....	16
III. CRIMINAL CASES.....	18
Disturbing the peace.....	18
Taking human life.....	36
Accidental.....	37
Slander.....	38
Disciplinary.....	43
Provoked or wanton	44
Sorcery.....	52
Violation of the pipe.....	55
Desecration of holy paraphernalia.....	57
Irregular marriage.....	60
Summary of crimes.....	61
IV. QUARRELS BETWEEN H AND W KIN.....	65
Summary.....	76
V. LEVIRATE CASES.....	77
Summary.....	79
VI. ABSCONDING AND STATUS AS A LEOAL PRINCIPLE.....	80
H higher than C.....	81
C higher than H.....	88
Onde prescribed behavior.....	96
Modifications by personality.....	102
Sanctioned deviations.....	104
Status aspects inadequate.....	107
Rape cases.....	112
Summary.....	113
Procedure.....	114
Status	117
Relative Status.....	118
Absolute Status.....	120
Conclusions.....	124
VII. PROPERTY QUARRELS.....	125
VIII. FINAL SUMMARY.....	130
BIBLIOGRAPHY.....	135

I. INTRODUCTION

Although anthropologists have long been deeply interested in the general problems of social control, there are still too few studies of law in pre-literate communities documented with case histories. A majority of those existent deal with African tribes.¹ The African systems of law are relatively easy for us to understand. They have elaborate court procedure. Plaintiff and defendant retain counsel to plead their respective cases before a presiding judge. Witnesses are called to give evidence under oath. Even the citing of a proverb to prove a legal point bears a certain analogy to our use of previous decisions in legal procedure. If it be contended that African categories of crime are considerably conditioned by religious beliefs, for instance in problems of land tenure, let it not be forgotten that our witch trials are only of the recent past. Our legal institutions are supposedly dissociated from such magico-religious devices as the ordeal, yet we still require the oath on the Bible.

Such institutionalization of course is not general in native communities. It is lacking, for instance, in aboriginal Siberia and North America. Yet scholars of jurisprudence find it difficult to concede the presence of law where law is relatively unformalized and unorganized. Mr. William Seagle, for instance, in his "Primitive Law and Professor Malinowski"² states that "the test of law in the strict sense is the same for primitive and civilized communities, i.e. the existence of courts." He accordingly sets legal institutions up as primitive or advanced. Cultures are equated with certain levels, the Chinese, Greeks, and Jews having relatively "undeveloped" legal institutions, in contrast to the Ashanti of Africa (to whom he would probably by his definition give a place near the top). John H. Provinse, writing on sanctions in the

¹ Some of the better known of these African studies are: R. S. RATTRAY, *Ashanti Law and Constitution*, 1929; *Religion and Art in Ashanti*, 1927. C. K. MBEK, *Law and Authority in a Nigerian Tribe*, 1937. B. GUTMANN, *Das Recht der Dschagga*, 1926.

² *American Anthropologist*, Vol. 39, 1937, p. 280.

Plains³ states that law can only exist in a politically organized society, and that only organized sanctions, dependent on a centralized authority, are legal.⁴ Consequently, "the individualistic nature of Plains justice (is) nonlegal (in) character."⁵ Law, though existing on the Plains, can be shown "(not) to have operated for the groups for all times of the year"; . . . "law had not yet come to pervade Plains culture as continuously or as fully as it has our own."⁶

Such an approach vitiates the study of the unformalized law found in most of North America. However, in some tribes, particularly east of the Rocky Mountains, we do have records of formal trials and of conferences of chiefs for mediating disputes between citizens. Among the Iroquois, when a murder occurred, councils on each side convened immediately to try to forestall a retaliatory killing. Revenge was taken only if their negotiations failed.⁷ Hickey⁸ describes a murder trial which occurred in Saginaw, Michigan, (probably among the Chippewa Indians). In a gathering of great solemnity at a specified time and place, plaintiff and defendant faced each other before a presiding officer (who did not adjudicate, however). Three pleaders on each side presented their cases, and the truth of their statements was supernaturally tested. Greater formality did not often occur in North America. The Omaha⁹ had an august body of chiefs authorized to deal with murderers and those who flouted their authority. They were empowered to banish and even to take the life of a misdoer in the interests of public welfare. These three cases illustrate the way in which a rather general North American institution, the council meeting, dealt with offenses of tribal interest.

Many of the buffalo-hunting tribes of the Plains, however, lacked for at least part of the year such formal agencies for the prosecution

³ JOHN H. PROVINSE, *The Underlying Sanctions of Plains Indian Culture*. In *Social Anthropology of North American Tribes*, FRED EGGAN, ed., University of Chicago Press, 1937.

⁴ *Op cit.*, p. 369; cf. also p. 344.

⁵ *Id.*, p. 366.

⁶ *Id.*, p. 370.

⁷ L. H. MORGAN, *League of the Hodenosaunee or Iroquois*, 1851, pp. 331-333.

⁸ M. HICKEY, *A Missionary among the Indians*, 1847. Michigan Pioneer Coll. v. 4, pp. 550-556.

⁹ ALICE C. FLETCHER and FRANCIS LA FLESCHÉ, *The Omaha Tribe*. BAE-AR 27, 1911, pp. 213, 215.

of crime. In certain seasons the military societies enforced law and order, and this is the agency stressed by Dr. Provinse, but they had jurisdiction over only a small part of the settlements and adjustments necessary for the maintenance of intra-tribal peace. Of all the aspects of Plains social control, the societies are the best described, probably because they were rather conspicuously analogous to our police-corps. But inasmuch as dispute situations did not in the main reach such proportions that organized sanctions were invoked, even where such existed, detailed accounts of conflicts, basic to any systematic consideration of law on the Plains, are inadequately recorded.

The Kiowa in the southern Plains had less institutionalized legal procedure than any other Plains tribe except possibly the Comanche.¹⁰ Mooney¹¹ gives a generalized statement of their legal procedure:

"Adultery is punished by taking or destroying the property of the guilty man. The woman is simply 'thrown away' by her husband, although in theory her life is forfeited. In former times he might kill her or cut off her nose. . . .but this latter custom is now (1893) only a tribal memory. . . . Camp and ceremonial regulations were enforced and their violation punished by the (military societies), acting under the direction of the war-chiefs. Personal grievances were avenged by the injured party or by his nearest relatives without interference by the tribe."

This was practically the only data on law among the Kiowa previous to the present study.

In the light of case histories gathered in the field, Mooney's generalized statement proves inadequate. In the first place, certain actions inimical to the well-being of the whole group were dealt with on a tribal basis in one way or another, and these might well be called "crimes". There were some fairly well defined procedures set up to deal with these criminal acts, but "organized sanctions" were applied in only a few cases. In dispute or grievance situations procedures seem on the surface to be even more unpredictable. For instance, in case of adultery, property was not always taken or de-

¹⁰ E. ADAMSON HOEBEL, *The Political Organization and Law-ways of the Comanche Indians*. A. A. A. Mem. 54, 1940. I am indebted to Dr. Hoebel for permission to study this manuscript before publication.

¹¹ JAMES MOONEY, *Calendar History of the Kiowa Indians*, BAE-AR 17, 1895-1896, p. 233.

stroyed. One husband set out on a man-hunt, another ran to hide, a third ignored the defection, and a fourth honored the guilty lover with a feast. Sometimes the wife was taken back, sometimes she was killed. Such variability in legal action might on superficial examination be attributed to "undeveloped law".

The analysis of the case histories that follow attempts to show that the Kiowa did have well defined legal procedures which they were obligated to observe on pain of losing the respect of their fellow tribesmen. The fact is, in spite of a homogeneous society with no economic specialization, where industry, ambition, and ability were the only prerequisites to a life of comfort, the Kiowa had a relatively large choice of behavior possibilities in criminal and dispute situations. These they were perfectly articulate about, even to the point of making generalized statements as to possible procedures. What the Kiowa were not articulate about, but which in case analysis solves the riddle of the "variability" in grievance prosecution, was that each behavior pattern was generally correlated with a specific status level or status relationship of the opponents. This aspect is one of the most important problems dealt with in this paper.

To discuss legal procedure, it will be necessary to present first a background of Kiowa society, followed by a discussion of criminal actions and prosecutions; then we shall take up the dispute and grievance situations, with a special consideration of the role of status as a determinant of behavior in Kiowa legal settlements.

II. BACKGROUND OF KIOWA LIFE¹

The Kiowa of Oklahoma were a tribe of buffalo hunting nomads comprising about 1600 persons. They have always been considered a "typical" southern Plains tribe because of such traits as a buffalo subsistence, tipi dwellings, extensive war complex associated with coup-counts, the sundance and military societies. Their subsistence economy was largely dependent on the buffalo, which provided food, clothing, shelter, fuel and all manner of utensils. The social and political life was so organized as to cope efficiently with the problem of obtaining adequate supplies of meat and hides.

A

The basic economic and social group in Kiowa life was a group of brothers and their wives and children, including, under conditions described in the next paragraph, sisters and their spouses and children. Half-brothers, half-sisters, classificatory brothers, and even pact-brothers² might be permanent members of this relatively stable unit. The warmth of the relations with more distant kindred was directly proportional to the amount of contact kept up through frequent visiting. Without permanent residence together, secondary kin were not effective in the primary scene of social and economic cooperation. The normal head of this group was the oldest brother, unless displaced because of physical disability or incapacity. They all lived side by side in a cluster of tipis, sometimes by themselves, sometimes within a much larger aggregate, according to the season and economic needs. This basic group was related as affinals to other more or less extended families. Bonds of affection and deep respect usually linked the affinals, but serious conflicts occasionally broke out between them.

¹ This description covers the period from ca. 1830 to 1880. The buffalo became extinct in 1879, war-raids and the sundance were prohibited in the 1880's, and the reservation system destroyed the old nomadic life shortly thereafter.

² I.e. sworn comrades, or "blood" brothers, found generally throughout the Plains.

The primary political unit was the *topadoga*³ or band, headed by one man, the *topadok'i* (chief, 'band chief, headman). There were ten to twenty of these topadogas in a total population of 1600, ranging in size from twelve to fifty tipis. The term *topadok'i* was also used to designate the head-of-a-group-together, i.e. leader. In general the size of the band was a good indication of the leader's prestige and abilities. Since most Kiowa rights and obligations flowed along kinship lines, the topadoga was by legal fiction considered a kin group. The *topadok'i* was spoken of as the "father" of the topadoga which actually comprised a group of relatives, affinals, and *non-relatives* who attached themselves to the *topadok'i* who provided the best living conditions. The most stable element of the topadoga was the leader's close kindred, i.e. his own brothers, his sisters and their spouses, his parents, his mother's and father's brothers, and his sons and daughters with their families. This group rarely renounced allegiance to the *topadok'i* unless flagrant incompetence forced the selection of another member of the family as head. More distant kinsmen tended to group themselves around the most eminent *topadok'i* in their family line, endeavoring thus to build him up, rather than join bands headed by unrelated chiefs. Non-kin in a topadoga were usually persons devoid of close kindred, and often poor. However, some of the non-kin were of good status who attached themselves because their own topadoga had been broken up temporarily by their leader's death. These would leave presumably as soon as their group re-formed under a new *topadok'i*. A topadoga, therefore, was a relatively fluid body in spite of its stable nucleus.

When the topadoga was large, it was easier to exploit the economic resources of the country and to protect the camp from enemy attack. Consequently the poorer class constituted a desirable labor group, and there was considerable competition among the different *topadok'i* for these followers. One important formal mechanism to induce persons to join one's family was to give one's daughter or sister to some energetic though poor young man. "Giving a woman" was practically the only form of marriage that entailed matrilocal residence. Moreover, the closeness of brothers-in-law, especially where one of them was a *topadok'i*, brought in

³ Kiowa words have not been rendered phonetically exact. A plural for topadoga has been arbitrarily formed in terminal *s*.

the sisters' families to the group. These two factors often accounted for the residence of a leader's daughters and sisters in his band. However, the real attracting and cohesive force was the wisdom and generosity of the topadok'i. He managed the affairs of the group through their voluntary cooperation and informal acknowledgement of his position. Obedience to his orders was incumbent upon all followers, and it was to their interest to cooperate. The chief would never order a miscreant to leave his band, but any unsatisfied member might depart at any time. In fact, in view of the competition for followers, a topadok'i had to be careful not to offend misbehaving followers by too severe chastisement, otherwise the latter would "visit"⁴ another topadok'i, i.e. move away. Where the topadok'i himself was at fault, his whole group might withdraw from him, leaving him alone without a following (cf. Case 1). This supreme sanction effectively wrecked a man's reputation for a long time.

The topadok'i's responsibilities were primarily maintaining law and order without any "police" assistance, directing the movements so that economic needs were satisfied before they became acute, and protecting from enemy attack. To keep the peace, he might step in and personally stop any bickering or fighting. His obligations toward his followers did not require him, however, to participate in interband disputes in defense of his followers or to oppose, if necessary, the other man's topadok'i. In actual cases, the two topadok'i more often cooperated to stop a fight without either side "winning". Since his own behavior was more or less of an example to all, the leader himself might not quarrel over small matters with anyone in or out of the band without risking the loss of his followers' respect and confidence. Even in his relations with other tribesmen, a topadok'i did not make a scene unless unduly provoked. This was the ultimate reason for restrained and lofty behavior among men of great eminence. Their internal sanction had a very real economic and social base with their followers at stake, although they also gained real prestige by showing tolerance.

A topadoga did not maintain common residence throughout the

⁴ The Kiowa word for "visit" may be roughly translated "to go-a-prairie-dogging." They imagined that prairie dogs lived in topadogas too. When they saw one running along, they used to say, "It is *offended*, and running around looking for another topadoga."

year, but fluctuated in size according to the season. At its maximum in the winter camp there might have been four hundred souls living together under a single chief. In spring or fall, though, during the big hunting season, the great head of this large group was travelling with only his own brothers while other subgroups temporarily went their way to hunt and visit. Whatever the size of the group, however, the ranking chief was the head man and was called *topadok'i*, and his following was called a *topadoga*. If two *topadogas* joined to travel together, the higher of the two *topadok'i* would be in charge, while the other would be part of the informal group of older and prominent men which acted in an advisory capacity at nightly smoke meetings.

B

Next to buffalo hunting, the great Kiowa economic and sporting activity was raiding for horses and war honors. The Kiowa participated to the fullest in the usual Plains system wherein formal recognition was given to the performance of specific deeds on the field of battle. By performing four deeds (out of a list of twelve or so), a man gained the honored appellation *kietai* (warrior). A *kietai* who displayed signal bravery and military skill was called *kietaisopan* (great warrior), and was honored above all others. However, nearly every man had some deeds which he had achieved, and what he had was recited on all possible occasions. Sometimes the truth of these recitations was doubted, in which case a man swore on the pipe as to its validity. No cases were recorded where disputes over coup-counts ended in a serious fight, but quarrels were frequently aggravated by aspersions on war honor.

War parties were either family, *topadoga*, or tribal affairs. No matter what the size, the war-leader was in absolute control, and far greater discipline was enforced here than elsewhere in Kiowa life. The leader directed and lead the attack, received and distributed all booty gathered. On the war path quarrels were not permitted. Should they have broken out, the leader stopped the argument at once. If the leader misbehaved there was nothing really the men could do except talk about his incapacities afterwards.

C

Once a year in the summer the entire Kiowa tribe gathered at the sundance. Tribal organization at this time was very different from the kin organization of the rest of the year. The topadogas encamped around the sundance lodge in the traditional great circle were somewhat, though not entirely, broken up, for some members preferred to camp with other relatives they had not seen the whole year. The *Taime*-keeper, owner of the *Taime*, or sundance doll, was the formal tribal head. He directed the march to the location designated for the ceremony, and announced the program of events each day through the camp-caller. He proclaimed a "harmony rule", that for the period of the sundance all quarrels and jealousies were to be forgotten, no one was to be angry for any reason whatsoever, and clandestine affairs of one's spouse were to be tolerated with good humor. Although the topadoga did not supposedly function at all at this time, the great chiefs were still in complete authority, although now over groups, e.g. the societies, that cut across band lines. In other words, the topadok'i merely had a new role for the occasion. There was no doubt that although chiefs accorded all honor to the religious authority of the *Taime*-keeper, they paid but lip service to his temporal authority. The *Taime*-keeper listened carefully to their advice at nightly smoke-meetings, and handed it out the next day as his own.

To keep peace and order in this large assembly, the *Taime*-keeper depended on the five so-called military societies. These were, in increasing order of prestige, the *Adltoyui*, *Tsetanma*, *Tonkongya*, *Daimbega*, and *Koisenko*. Their membership included the entire male population of the tribe. Each society had two leaders and two "whip-bearers", i.e. sergeant-at-arms, and these four men watched over the behavior of their members. It is most important to remember that these societies functioned only during the four or so weeks of the sundance gathering. In the topadoga they never convened. There was, except for the sundance period itself, no solidarity on the basis of common membership alone of any real functional importance.

The societies played a conspicuous part in the sundance affairs. They were detailed by the *Taime*-keeper to set up the circle of tipis properly. They held nightly meetings and numerous convivial feasts with song and dance. They also all participated in the sham-

battles and pole-bringing in the sundance preparations. Moreover, one of them was designated to police the single tribal buffalo hunt.⁵ In line with this police function were their general duties in enforcing law and order. Any trouble-maker who ignored the admonishments of the Taimé-keeper found himself up against the heads of one or all of the societies. They were empowered even to take his life in the interests of the public welfare (Case 2).

Tribal recognition at the sundance of commendable behavior in war and at home began by "stealing" a rising young man from one of the societies, i.e. inviting him to join another of higher status. Formal recognition by the entire tribe of a man's signal achievements on the war-path occurred in the sunlodge itself when four were dubbed kietai. Later, if one were kictaisopan, with a superlative reputation built up, the highest formal reward of all was conferred: *an invitation either to head one of the first four societies, or to join the fifth, the great Koisenko society.*

D

The religious life of the Kiowa was not bound up only with the sundance. There were also ten tribal Medicine Bundles which controlled the supernatural welfare of the entire tribe. These are to be distinguished from the personal bundles used in curing and war. The latter were acquired either by inheritance with a validating vision, or were conferred directly by the guardian spirit upon the individual under accidental or induced stress conditions. On the other hand, the Ten Medicine Bundles were held in ten family lines, and were handed down from father to oldest son⁶ on condition only that the son be old enough to learn the ritual to care for his Bundle properly and observe its taboos. The priest-owner gave his Bundle ceremonial sweat-baths, repaired its outer covering, prayed to it in behalf of individuals, but otherwise lead a normal life of hunting and warfare. Being equal in power, all of the Ten Medicines were treated in exactly the same way. Anyone might

⁵ The policing societies lined up in front of the hunters, in order to restrain them from dashing in before a given signal. This method was used throughout the year on any large herd, an informal, self-organized group of hunters serving as police. Only at the sundance was a society designated as police.

⁶ It is not necessary in this paper to go into the problem of the adjustments in the inheritance pattern that were occasionally necessary.

give gifts to a Bundle and pray to it. Mildness and numerous taboos were enjoined upon the owner, and no violence might occur in the presence of a Bundle. Consequently, the ten tipis where the Bundles were kept constituted ten sanctuaries where individuals in flight might take refuge. No Kiowa would risk the automatic curse of "angry medicine" by violating the sanctuary. The same attitudes and behavior were directed toward the much more recently acquired sundance doll, the Taime. At the sundance the Ten Medicines were in no way in abeyance, but did not function in the dance itself.

The Keeper of a Ten Medicine Bundle had a most important legal function because he was the one who presented a peace pipe in a quarrel. The pipe was a basic institution over much of North America for stopping intra-tribal conflict and inter-tribal war. The Kiowa used it when they made peace with the Comanche more than a hundred years ago. They used it also during internal disorders. The tacit assumption seems to have been that independent tribes were equated with individuals or kin groups. The pipe was not used within the close kindred, and rarely within the topadoga, for in Kiowa terms these could not by any stretch of the imagination be split into "two independent groups". The legal procedure was as follows: it was possible for the relatives of any defendant, fearing for his life, to seek such an owner and ask him to offer a pipe to the plaintiff. The pipe was offered and almost never refused. Smoking constituted an oath that there would be no further action. Compensation might be stipulated by the plaintiff at that time and could not be refused. The use of the peace pipe involved no judgment as to who was right and who was wrong. Consequently there was no loss of face on either side. This mechanism effectively inhibited a *lex talionis*. One informant was struck by the fact that he could not recall a retaliatory murder in the history of the tribe (yet cf. 10, 20). Refusing the pipe four times, or violating the injunctions after smoking, called down on the offender's head immediate ill luck, and ultimately, death (Case 2). There was also a curse of the Ten Medicines that might be invoked by a Keeper against anyone flouting the pipe, but it was usually unnecessary to use it because of the automatic supernatural sanction on a transgressor. There was one case of a non-keeper calling on this curse (Case 25). There was also some in-group sorcery among the

Kiowa, but only personal bundles, not the tribal Medicines, could be so used.

E

We turn finally to a consideration of status, which was so important in Kiowa life that it altered the very form of certain institutions. Residence after marriage, for instance, was normally patrilocal; we have seen that for husbands lower in rank than their wives it was matrilineal. Polygyny was reserved only for those of high status, and also the privilege, and expense, of having an *ode* child.⁷

There was no single criterion of status among the Kiowa. Each man had a niche in a number of separate systems. Effective status was determined by the totality of his roles with due regard to the heavily weighted factors of war record, wealth, and size of kindred. The components of a man's effective status were as follows:

1. *Sex.*

This was a male-orientated culture. Women did have societies of their own, curing power, and were *ode*, but their prestige mainly came by identifying themselves with the achievements of brother, son, husband, or father. Personal fame for women came from good looks and industrial skill.

2. *Age.*

The oldest brother was almost always the head of the family. Among those unrelated to each other, small differences in years did not loom large during the prime of life. Age beyond the point of complete physical and mental power was pathetic, particularly for a man. No matter how honored once, with senility a man became poor and a burden to all. At retirement his great name, if he had one, had to be replaced by a comic one.

3. *Blood.*

The great positions of authority were only open to full bloods. A stigma was attached to a captive or half-breed, or even quarter-

⁷ *ode* child = "favored" child. This was a custom of concentrating the entire family's attentions and wealth on one child, pampering and dressing him up, relieving him of all work-a-day activities, and giving away in his honor quantities of horses and objects at the most trivial opportunity. These children were legally recognized as *ode* and had special advantages over other relatives (Cf. Case 91).

blood. Signal achievements might dim the memory of the fact, however, and several captives, adopted into good families and with superior war records, far surpassed many Kiowa in status, but none ever became topadok'i.

4. *Personal qualities.*

Every man was judged concerning the following personal qualities: good looks; physical perfection; wisdom in economic planning; consistent peacefulness and gentle behavior, particularly toward women; generosity in giving horses and gifts; and audacity in war.

5. *Kindred.*

A large family of kindred who "loved" a person, i.e. who backed him, was in itself a status point of major importance. In any intra-tribal situation where prestige might be involved, relatives rushed to protect an individual by backing him lest they all fall with his defeat. Lack of kin was one of the main disabilities of unadopted captives. There were, however, several mechanisms for remedying a natural deficiency: adopting captives as son or brother; pact-brotherhood; adopting orphaned or poor children, especially in someone's honor; giving daughters in marriage so as to acquire by matrilineal residence an energetic son-in-law and perhaps his whole kin group. However, the emphasis was not on sheer size of the kindred. More important than the number was their status. Three great warriors outranked ten no-accounts, but one warrior probably could not outface ten commoners. Hence a great leader sought every means to raise the war record of his kinsmen and followers, for by the predatory nature of Kiowa warfare their rise was no loss to him. This is best shown by the custom of a very great warrior responding to the call of a very young warleader, and raiding *under* him. The young leader profited by the wise advice of the experienced warrior, and all the honors of the party accrued to him. Certain ambitious captives and poor young men were encouraged to rise by the ready loan of horses and equipment.

6. *Ten Medicine Bundle or the Taimé.*

Owners of these valuable possessions had prestige by reason of their priestly offices. Being the Keepers they were bound to have

special access to and favor from the supernatural powers, hence were considered likely to have success in their ventures. Wealth flowed to them from the whole tribe, because of the frequent gifts to the Bundles of cloth, spices, and even horses and captives. Consequently, people liked to camp by a Bundle. Fifty percent of the great leaders were also Ten Medicine owners. Even unworthy Keepers were tolerated and followed because of the prestige of their Medicines.

7. *War Record.*

It does not seem necessary to expatiate further on the fact that the war-record was the single most important determinant of status in Kiowa life. It was the *sine qua non* of all the great rewards of the culture.

8. *Wealth.*

Wealth was correlated with war activities because it consisted of horses acquired primarily by raiding.⁸ A herd of twenty or thirty was considered a proper size. To have less than twenty meant one was not a sufficiently able warrior to keep up the herd. To have many more showed stinginess and required an unfair share of water and pasturage. The main point is that wealth had to be kept moving through one's hands by continual give-aways and even by conspicuous display. Generosity in giving horses was vastly more important than the possession of horses itself.

9. *Special skills.*

Proficiency in special skills might heighten distinction. Lacking the aspects previously mentioned, no profession, not even curing power, could put one in the ranks of the really great. No skill was a specialized profession, for every man in the tribe did his own hunting and probably went on the war path. The following sample skills are listed roughly in decreasing order of distinction: curing powers, deer-surround power, composer and singer of songs, orator, story-teller, surgeon (no power involved), artist, dancer, eagle-catching, arrow-making, jockey, and horse breaker.

⁸ Cf. BERNARD MISHKIN, *Rank, Wealth, and Warfare among the Kiowa Indians*, in manuscript, for a detailed analysis of the interrelations of the war-economic complex and status.

10. *Rank.*

Kiowa distinguished three semi-formalized named ranks into which one was born. The position had to be maintained or validated, of course, by appropriate achievements, but there is no doubt that the cards were stacked in favor of a son's achieving at least the rank of his father. There were many cases of people rising to eminence from poor and inauspicious beginnings, and some cases of "losing caste" by dishonorable actions. Relatively great vertical mobility, one of the general characteristics of the Plains, was found, but it is significant that even in this individualistic culture, there were specific terms denoting absolute status.

To a certain extent the rank sums up all the nine preceding components of status for the terms were used in common parlance to indicate quickly a man's status. But it should not be overlooked that rank was an important element of status in its own right. To be "onde-born" or "k^wown-born" carried with it the same connotations of advantage and disability found as birth-rights in any society with highly differentiated social levels. The ranks were: *Onde*, or first rank, (10% of the population): greatest warriors; important topadok'i; most of the Ten Medicine owners; wealthy persons if distinguished also with fine war records; pre-eminently the level of the "brave and courteous".

Ondegupa, or second rank, (30-40%): small topadok'i, some equal in wealth, but second in war honors, to onde; a group of extremely rivalrous warriors trying to achieve onde status (yet even the greatest warrior, if, for instance, actually cruel to women, had to take his place here or even lower, because of his non-onde disposition); no Ten Medicine owner lower than ondegupa; some exceptional captives; most medicine men; most persons of moderate wealth.

K^wown, or commoners, (40-50%): "poor but honest", with little war record, largely because they could not go to war as often; sought as followers by the greater leaders. Men rose from this rank by being energetic and courteous.

Dapom, or no-accounts, (2-5%): the tribe's bad characters, poor because lazy, lacking ambition and respect for others and themselves. The term was also used as an epithet.

In the Plains cultures, where constant opportunity was given for comparing the relative achievements of men, there was com-

monly substantial agreement by everybody as to a man's status. If any debate arose over the relative position of two individuals rather closely matched, it was usually settled by a recitation of the two coup-counts. Sometimes there was difficulty in arriving at a decision, for it was in the nature of the Plains individualistic warfare that no two episodes were exactly alike, and therefore not strictly comparable. If a decision could not be reached on the basis of coup-counts, the warriors recited the number of captives and horses taken, and the horses given away. The other components of status we have mentioned were not explicitly invoked during competitive recitation, but life situations left no doubt as to their importance. It almost never happened that at a given point of time a man was placed high by one informant, low by another, provided there was no prejudicial kinship bond between them.

F

To maintain the institutions just described the Kiowa used a number of premial and penal sanctions. These varied from diffuse mechanisms like scolding and ridiculing, primarily within the family, to such institutionalized devices as calling through the camp at night, composing ridicule songs, and invoking the societies at the sundance as a police corps. In general the greater the number of participants, the greater the institutionalizing of the sanction. These sanctions tightened and solidified the basic units, particularly the small kin group, so that a family was ready in time of need to present a solid front to those who threatened its interests. These threats arose frequently because there were numerous situations in Kiowa that called for adjustment.

TABLE OF CONFLICT SITUATIONS⁹

A. CRIMES

I. Disturbing the peace (1?, 2, 3, 4, 5, 6, 16?, 20?, 47?) (two unpublished).....	Total no. of cases 10
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⁹ Numbers here and in the text refer to cases subsequently presented, not to pages unless specified. Some cases may be placed under two or more categories, either because there are two episodes in the case, or a situation has an alternative interpretation, or because there are additional aspects involved. Twelve cases are omitted because data are too meager for analysis, but are included in the count in order to show the proper frequency in each category.

II. Taking human life (4, 5, 7, 8, 9, 10, 11, 12 ² , 13, 14, 15, 16, 17, 18, 19, 20) (two unpublished).....	18
1. Accidental: 7, 8, 9, 19 ²	
2. Disciplinary: 4, 10, 11, 12 ² , 13	
3. By sorcery: 20, 21 ² , 31	
4. During a quarrel: 5, 14, 15 ² , 16, 17, 18, 19, 20	
III. Slander (10, 11, 12).....	3
IV. Treason (13).....	1
V. Violation of the pipe (22, 23).....	2
VI. Desecration of holy paraphernalia (25, 26).....	2
VII. Irregular marriage (27).....	1
B. DISPUTES AND GRIEVANCES	
VIII. Quarrels between a husband and his wife's kin (14, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38).....	12
IX. Infringed levirate rights involving a wife and husband's kin (39, 40, 41, 42).....	4
X. Quarrels involving husband, wife and co-respondent (2, 5, 10, 11, 13 ² , 15, 16, 17 ² , 18, 21, 22, 23, 25, 26, 36, 37, 38, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 59, 60, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83) (eight unpublished).....	62
1. Absconding (going off with a man either to another band or on a war party): 10, 11, 18, 21, 25, 26, 38, 43, 45, 48, 49, 50, 51, 52, 53, 59, 60, 62, 63, 65, 66, 67, 68, 69, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 83 (eight unpublished)	
2. Adultery (an affair, sometimes caught in flagrante delicto): 2, 22, 23, 36, 37, 44, 46, 47, 55, 64, 70, 71 ²	
3. Suspected adultery: 5, 13 ² , 16, 54, 59, 71, 72	
4. Miscellaneous ("fight over a woman", etc.): 15, 82	
XI. Rape (6, 84, 85).....	3
XII. Property (especially horse) quarrels (19, 25 ² , 56, 57, 58, 61, 86 ² , 87, 88 ² , 89, 90, 91, 92).....	13
1. Stealing: 56, 57, 61, 86 ² , 87	
2. Disputes: 19, 25, 58, 88 ² , 89, 90	
3. Inheritance: 91, 92	

There are 104 cases in all, of which 92 are presented for analysis in this study.

III. CRIMINAL CASES

There were certain offenses among the Kiowa which may fairly be called crimes because they incurred a tribal reaction, consequently may be said to have concerned the welfare of the entire tribe. These acts sometimes involved a purely social sanction, sometimes a supernatural sanction expressed as permanent ill luck or death. Social action might even go as far as infliction of the death penalty at the hands of a tribesman.

These offenses may be categorized as follows: (1) disturbing the peace, (2) killing, (3) slander, (4) treason, (5) sorcery, (6) violation of the pipe, (7) desecration of holy paraphernalia, (8) irregular marriages, (9?) flagrant misbehavior on the part of responsible leaders, i.e. topadok'i, and war leaders, though this inclusion is doubtful (Case 1).

The course of action in prosecuting these crimes is set forth in the cases, and also the mechanisms for effecting peace. In some respects there were sharp differences in the mechanisms available during the brief period of the sundance, in contrast to those in service the year 'round. The most conspicuous example of the former was the military societies, in formation then, that might be invoked as police squads for that period. At that time, too, the Taime-keeper was solely in charge of the tribe, and his injunctions were backed by religious sanctions. During the rest of the year, when the tribe was split up into band groups, the topadok'i and the war-leader were peace-makers by virtue of their position, along with the Ten Medicine Keepers, the Taime-keeper (now head merely of his own band), and to some extent the few owners of private pipes obtained from other tribes.

Although it was not at all structuralized, popular sentiment for peace was probably the keystone which permitted the successful functioning of all legal institutions, and in itself was responsible ultimately for more adjustments than the formal mechanisms. This feeling, permeating all social ranks, stopped fights, and if not often preventing quarrels outright, at least inhibited their develop-

ment into serious affairs. It seems that without this diffuse pressure and self-discipline, there might have been frequent feuds in this braggadocian society. How important it was to have peaceful conditions of life may be well imagined from the remark of a topadok'i who, hearing that a serious quarrel had been settled, said, "That's good. We won't have to be uneasy now. We won't have to be prepared for trouble" (23). There is much evidence in the culture to indicate the prevalence of this spirit. For instance, it should be noted how frequently the phrase, "people held (the quarrelers)" appears (4, 5, 17, 22, 25, 47, 72, 85, 88). When a fight started, women yelled, "Somebody stop it!" Even men without the authority of a topadok'i might step in to settle a quarrel. One prominent bystander did so, (*since there was no pipe-keeper around*), and promised gifts to both sides to stop them (68). A half-breed once stopped a fight brewing between two pipe owners (35). One did not ordinarily shame even a thief in public lest tension be increased (56). A man shot, endangering innocent bystanders. People said to his tiny son, "Your father is a bad man, he is shooting into a crowd" (37). Men were profusely thanked for not prosecuting (20, 43, 47). A man set himself a time limit within which he had to prosecute (45). Angry men avoided each other (47). If anyone heard a vow for vengeance, he rushed to tell the victim (20), lest the latter be shot unexpectedly (5). (This usually allowed kinsmen time to call in a medicine pipe owner.) A legitimate death penalty was not carried out on the spot lest the circumstances be misunderstood by the victim's kin and trouble arise (13). The recognized proper behavior of a guilty person and his kin was passive acceptance of the aggrieved's revenge. A co-respondent's mother greeted a group bent on a destructive property raid with "Women, do what you please" (79). This usually lessened the attack. Elsewhere, "he shouldn't have been angry because his brother was guilty" (68). Anger or resistance to a society's discipline in a tribal buffalo-hunt eliminated their usual gesture of returning the destroyed property (3). Spectators were pleased by a conciliatory attitude on the part of a defendant (43, 47). One ought not to refuse a pipe offered (2, 47) because the pipe "settles things rightly" (45). In fact, since the supernatural sanctions were felt to be so strong in Kiowa, it is likely that they were accompanied by widespread unexplicit social

sanctions: for instance, popular revulsion from a known murderer might well lead to non-cooperation with him in slight ways, so that he felt he was pursued by "hard luck" (cf. discussion below). The potency of these supernatural sanctions, with their implicit purely social aspect, might be one of the measures of popular antipathy to criminal behavior.

Kinsmen and affinals brought this pressure for peace to bear (2, 20, 23, 32), though not entirely without self-interest, for if a really serious fight developed, they were probably involved, if not in mortal danger (5), (though no case ever actually records such a killing). Supernatural retribution might affect kinsmen too, and this made their efforts the more earnest (21, 25). Kin deprived an angry man of his gun (5, 17, 33); they requested personally that the pipe be smoked (2, 32, 67), a double pressure "since it was more serious to refuse a kinsman's request than the pipe itself." The fact of kinship alone was invoked to settle a quarrel between distant relatives (47, 50?). Family convocations were called to discuss collective action in prosecution and often it was decided not to take vengeance (19, 20, 25). An interesting frame-up to obviate hard feelings occurred whereby the kin of the plaintiff prevented him from killing the defendant's most valuable horses, yet let him save his face by shooting some horses (25). Where a husband beat his wife too much, the wife's kin usually warned him at least once before taking action (28, 29, 30, 32). The strongest expression of this sentiment was towards keeping family quarrels down. It was said, "Family affairs don't get out".

The role of the *topadok'i* crystallized this popular feeling and gave it voice. These men were, of course, supposed to settle quarrels within their own following. Big Bow said to two of his men fighting, "I have charge of this camp. I am responsible for your protection. You two be friends" (61). In an inter-band squabble, the two leaders arranged to quiet their respective followers (82). In no case would a *topadok'i* prosecute for a follower, except when the opponent, violating his oath to peace on the pipe, reopened a quarrel. Here the agencies of tribal authority were flouted; with these at stake a leader would fight in defense of his man (22). Otherwise his efforts were wholly to restrain, obtain forgiveness (47), prevent disorders (20), or just watch with other specta-

tors (14). If on the other hand, high ranking leaders themselves quarrelled, the public reacted very strongly. One such conflict was stopped by the remark, "(Fighting is) not good for the people" (70). The following case illustrates well the popular sentiment.

Case 1

Lone Wolf, a very prominent chief, and his brother-in-law *Ωpeigudl*, also a *topadok'i*, got into a bitter fight. People moved away and went to camp with others.

Analysis: Both of these men were *topadok'i* in their own right, but "they often camped together", at which time Lone Wolf was in charge. It was an unpardonable offense for a *topadok'i* of a band to quarrel with anyone, particularly with his own kinsmen. Should this happen, or should he manifest criminal negligence of any sort, his followers might impose on him their own supreme sanction: withdrawal of support, i.e. they moved away.

Within the institutions themselves we find special mechanisms making for pacification. The cases will illustrate these best, but we may mention that a brother or father might smoke for a plaintiff, thereby enjoining peace; compensation (usually horses) was often a satisfactory substitute for a life; societies not only might be called on to keep order but might seek to protect a member and offer propitiatory gifts to a plaintiff in behalf of a guilty member. In no case would they prosecute.

In the light of this strong popular pressure for keeping even grievances down so that the public weal was not disturbed, it is not surprising that first on the list of crimes was "disturbing the peace". Even a private dispute, if prosecuted so violently that the public was stirred up, became thereby a criminal action (2). Thus, the original grievance or injury is not always adequate criteria for determining whether a conflict is on a public or private level. Of the following cases, 2, 4 and 5 illustrate particularly well how a private grievance might expand to a tribal concern. The following case is the most famous episode in tribal memory. The *Sett'an calendar*¹⁰ names the summer of 1873 for the event.

¹⁰ Cf. Mooney, op. cit., p. 336.

*Case 2*¹¹

H—husband, Guibwde, good war record, owned a Ten Medicine Bundle, but very irascible, touchy, chip on shoulder; Tonkongya society; (Cf. 3, 5, 55).¹²

W—wife, Ekopadl, one of two wives, daughter of a captive.

C—co-respondent, Pwkongiai, well born; son of Soopwpai, who was very rich in horses; Tsetanma society.

Time—1873, at the Rice or Maggot Creek sundance, whole tribe united, societies in formation under the Taime-keeper .

The year before this episode, H got into a fight with the societies at the sundance. H was a Kiep¹³ and was supposed to camp on the south side of the camp circle, but feeling that the Kiep territory was too crowded and the ground too rough he moved around into the Koigu¹³ position. Some members of the Daimbega society, policing the circle arrangement, came and said he should move back where he belonged. He refused and said he would camp where he pleased. They then carried his tipi and belongings back where he belonged. H was very angry and said that Daimbega could not push him around like that. He went and got his bow and arrows and said he was going to shoot a couple of them. They told him to put his weapon down or there would be trouble. H set about stringing his bow and threatening the society members. The chief of the Daimbega (probably White Bear)¹⁴ went up to him with his gun and told H it was unnecessary to have trouble; if he would obey the rules and go back where he belonged there would be nothing said. But H would not go. So the chief said if he was looking for trouble he would get it. H held up his bow as if to shoot and the chief stepped forward quickly and clipped him on the side of the head, knocking him unconscious. When H came to, the chief told him to move on or he would give him some more. H sat there and glared defiance. So the chief called all the society members and told each one, including some of H's relatives, to hit him over the head with whatever they had in their hands. When all the members had struck him, H got up without a word and went back to the Kiep territory.

A year later just before getting to the sundance circle, H caught W and C in flagrante delicto. Enraged, he set upon them. C escaped, so H began to beat his wife unmercifully. Her father came and grappled with H,

¹¹ This case history is derived from several versions with slight variations. Important differences are cited in the text itself.

¹² Numbers refer to other cases where this person figures.

¹³ One of several rather functionless groupings determining place of camping in the sundance circle.

¹⁴ Remarks in parentheses during case histories are the author's.

trying to throw him out of the tipi. In the scuffle W escaped out the back of the tipi. H went out crying out what he was going to do, vowing death to C, and threatening the Tsetanma or any one else who attempted to interfere with his vengeance. C's father immediately came over with four horses, some contributed by relatives, and three Ten Medicine Keepers to sue for peace. He started to enter H's tipi and was told to get out. He went in anyway and was thrown out violently. When H saw the three Keepers he told them he would not talk to them, so they went away. One version then states that the fourth and last pipe, was brought at this time. Then H's sister said to her son, "We don't want any trouble. Go to your uncle and say, 'Uncle, I want you to smoke this pipe. Why should you worry about a woman? I want to see if you really love me.' " The nephew did this, but H refused the pipe, saying, "No, nephew, I am going to refuse you for the first time." The sister cried bitterly because "refusing a nephew is almost as bad as refusing the fourth pipe."¹⁵ No more than four can be offered, but the person is usually so afraid of supernatural ill favor that he smokes the last one."

Soon after the people established themselves at Rice Creek for the sundance. H was looking for C, determined to kill him. The Taimkeeper instructed the societies to prevent H from carrying out his threats. When H heard of this, he said they had better not interfere. H then went out to C's father's herd and killed seven or twenty (alternate version) horses. Then he sat down in front of his tipi with his rifle across his knee and said, "Now that I have disposed of this, anyone who has business with me can come and talk with me here."

C was meanwhile hiding out in various tipis, including the Ten Medicine tipis, and could not attend his society meetings, for H was going around with a gun. "The Ten Medicine tipis were no sanctuary for him now that the angry H had refused four pipes." W was completely out of sight, staying with her husband's and sister's parents away from the camp. Then one night at one of the Tsetanma meetings Big Bow (head of Adltoyui) and White Bear (head of Daimbega) got up and said, "Let us help C, our fellow member, out. We want his presence at our meetings, but he has to hide out. We are getting tired of having our member imposed upon. We should stand by and protect him. If he should be killed, we will avenge him." Everyone agreed. The leaders went around that night in quick succession to all the other societies enlisting their help. C's father gave the Daimbega two horses. A delegation waited on H. They tied the horses close to H's tipi, told him to take them and forget

¹⁵ Comments by the informant are placed in the case histories with direct quotations where possible.

his grievances. White Bear was the spokesman. He said, "I speak for all the societies. H, you have always been arrogant and a troublemaker. Now we ask you to cease carrying out threats of violence. You have refused the Ten Medicine Keepers and threatened the societies. If you persist we will deal with you harshly and if necessary kill you." White Bear stuck his feathered lance in the ground in front of H. "We give you one more chance to agree to peace." Then he sang a Daimbega war song "to show H that the society was in earnest and would back him up." White Bear pulled the lance out of the ground and said, "H, if you don't answer I am going to run you through with this lance." H did not answer. White Bear told the society to stand by ready, that he was not going to speak to H again. He raised the lance to strike. H said, "I submit. I will do what you want but I wish one privilege. Let me do what I want to my wife." White Bear held up his lance again and said to the society members assembled, "You have heard the threat against his wife. H, whatever you do, you are risking your life. I will not ask for peace again. I leave with this spear pointing toward you. Do as you want." Then White Bear and the Daimbega went back to their meeting. The other societies came to learn what had transpired. White Bear told them that H had agreed to peace but that he felt H had not submitted completely. "I will give him until we leave the sundance to make up his mind. If he doesn't break camp with the rest, I want the societies to remain behind, and when the people are out of sight I will kill him with my lance."

When the camp broke H said he wasn't going. The people left and the societies remained behind. White Bear came forward with his lance. He said, "The time has come for me to kill H as I promised," and he went up to H to do so. At that moment Saondeton, head of H's society, the Tonkongya, ran up calling to White Bear to stop. (Saondeton had recently completely defeated H in performing a great war deed in front of him, so was in a particularly strategic position to discipline him. See case 55 for this very important incident.) "Wait a minute", cried Saondeton, "He has no courage. He is only a bluffer. It is not worth killing him. Let me take charge of this. I will ask him to move, and if he refuses my society will pack up his things and make him go. We will show him that he is not man enough to do as he pleases." White Bear replied, "Tonkongya, you are asking me to go back on my word, but out of courtesy I yield to you. Go to him and go now." The Tonkongya charged H's tipi. He was sitting in front with his rifle across his knees. Saondeton said, "H, I have come to see that you move. You are moving now, whether you want to or not." H made no move. Saondeton told his society to see how fast they could take down his tipi and pack him up.

They jumped off their horses and did so. Then Saondeton said, "H, I have saved your life, even though the war song had been sung. You must submit now. If you offer the least resistance you are a dead man." When the packing was done the society saddled H's horse and made him mount. They drove him and his pack horses after the moving camp as fast as they could go. As they passed the Daimbega, White Bear said, "Since he has submitted my gun must not stay loaded." He shot it into the air, and all the society members did likewise. When they got to the next stop, Tonkongya told H where to camp and made him unpack.

Another version of this story states that after H had killed the horses he came into a Daimbega meeting one night. He disputed with them as to who had the most war honors, Daimbega or his Tonkongya. Members became so angry at him that the meeting almost broke up. The Daimbega told the Tonkongya to quiet their man but to no avail. The quarrel waxed, and Big Bow came in to try to stop it. White Bear sent for Guekongia, a Ten Medicine owner and a Koisenko (the highest warrior society), to offer H the pipe. H refused it. (This may have been the fourth pipe mentioned above.) Then the pipe-owner gave White Bear permission to go ahead and do anything necessary, even to kill H. White Bear then said things were getting too serious, and the Daimbega even sang a special song they sang when they were terribly angry. White Bear then warned H for the last time, threatening death. (This version then continues with Saondeton's interceding.)

(The versions relate two different endings):

(1) When H saw that all the societies were against him, he said he was ready to smoke. However, that was not possible for he had already refused four pipes. There was nothing to do. He did not kill C nor W because he was afraid. "Because of the bad luck that follows one who rejects the four pipes, all of H's people are now dead. He lost the four horses offered to him, and his sister rebuked him, telling him how people were talking about his refusal of his nephew's wish."

(2) The day after people had moved away from the sundance, H came to W's father's camp and demanded her, probably to cut her nose. Since her father was a captive and so not "strong" enough to protect her, she fled to the tipi of Big Bow for protection. Big Bow refused to accede to H's demands. A hot battle of coup-records and insults started up. Finally, H said that he had "tied up" Big Bow down at Sun Mountain. (This refers to a way of insulting a war rival. When out on a war party in a distant land, a man drew a tipi on a rock, saying to his mates, "Here is so-and-so's tipi". On his return to camp, the man boasted that he had tied his rival up at this place.) When H jeered thus, Big Bow answered that he had "untied himself" by going to the very spot and taking down the rock.

He said that he had tied H up way down in Mexico somewhere. H was defeated in this argument, for he could not claim to have gone down and "untied" himself. Just then Yiesonte, an old man of Big Bow's camp came up, and said to H, "You've killed the horses and *they've* smoked a pipe! What more do you want to do?" This referred to the fact that "some of the relatives of H had apparently smoked a peace pipe" in his behalf, so it was "impossible for him to claim the girl, as any pipe smoking thus would be binding on all of them." H then went away, angry and outfaced. He died a couple of years later, "because he had refused the pipe."

Analysis. The case shows the functioning of the Ten Medicine pipe as a legal mechanism to enforce peace with the limits of its efficacy in a serious adultery case aggravated by flagrante delicto. Refusing the pipe, however, was not in itself the grounds for calling out the societies. The real issue was that of disturbing the tribal peace. During the sundance period, a persistent troublemaker, even if a Keeper, who showed flagrant lack of respect for the agencies of law and order might be speared to death by a society leader in the interests of tribal welfare. The singing of the war song was like an oath that would "swear the leader in" for the fulfillment of this task. White Bear delayed as long as possible before he prepared to take the supreme step. He had beforehand lined up all the societies, consequently mobilized public opinion in its entirety behind him lest he be charged with high-handedness.

White Bear and Big Bow were explicitly two of the three greatest warriors and topadok'i of the tribe. Saondeton, leader of H's own society, had just before completely outdone H in a very exciting war-path adventure (55) to which he was referring when he said H "has no courage." Since White Bear and Big Bow assumed the disciplinary job, and Big Bow in the last episode specifically invoked his own war-record as his justification for ordering H out of his camp, and since Saondeton said H "is not man enough to do as he pleases," it seems that sanction for authority ultimately rested in status in which war record played a very large part. In short, to take the brunt of dealing with a tribal offender, a man had to be able to outface him. This seems to be the reason why the Taime-keeper's role was so insignificant although he was nominally in charge of the whole assembly. He had authorized the societies to take any necessary action, but

really the whole situation was out of his hands because he personally *was not a great warrior*. Saondeton's remark quoted above carried the important implication that if a man were "man enough", i.e. great enough in war record and status, he might do as he pleased.

Refusal of the pipe four times called down supernatural retribution on H's head and inevitably caused his death. But it was specifically stated by informants that if White Bear had had to kill H, he would not have suffered the supernatural sanction ordinarily hounding a killer. The song may be construed as a public oath freeing a "sheriff" from personal responsibility.

All of H's actions are of interest, showing what could be done to prosecute such an adultery case. H beat W until her kin intervened to protect her. H warned C's society, for he seemed to expect that they would come to his assistance (probably by sending at least a peace pipe over to H). Proclaiming aloud one's intentions always brought out any defendant's kin, this time with a generous gift of horses, and three Keepers, though one was ordinarily enough. Refusing not only their three pipes, but even the fourth brought by a man's most beloved relation, his sister's son, was very serious, and this is the only time it is recorded in all our cases. Killing horses was the usual method of demonstrating anger and getting even, though the toll was unusually high. The case went from the private level into the criminal when all the society leaders, not just C's own, decided to take action. The final episode, with Big Bow protecting the wife, is not entirely clear, for the facts are inadequately recorded. It was possible for relatives to force one of their number to forswear vengeance by smoking a pipe for him. H had already refused four pipes, yet it is here indicated that relatives might still be induced to smoke, i.e. to take the responsibility of seeing that H did not misbehave further in the case.

Case 3

Gui—Guibwde, the Ten Medicine owner, whose sister was Kicking Bird's wife (Cf. 2, 5, 55).

KB—Kicking Bird, a prominent topadok'i; brother-in-law to Guibwde (Cf. 4, 47).

Time—1873, the same year of case 2, a few days after Guibwde had caused such fearful trouble.

Buffalo were getting dangerously scarce at this time (they disappeared completely in 1879). Since there was a very large group of Kiowa, Comanche, and Cheyenne together, the Taimc-keeper gave instructions that the Daimbega society should continue in formation in order to police several hunts after the conclusion of the sundance. The tribe was moving toward Red River, where buffalo were to be found although the herds were rapidly moving southward. A move to another camp site with a policed hunt by the men en route had been planned for a certain day with the Daimbega in charge. KB's wife was ill, "probably just had a baby." (Here the two versions vary somewhat:)

(1). Gui was bitter (as is very likely after the clash with the societies a few days before). He said, "The buffalo is for everyone. No one owns them. I have a sick sister who wants meat. I will get her some." The people tried to dissuade him from carrying out his plan, but he and two others (named below) started off to get meat. "Kicking Bird was in no way responsible. He did not encourage Gui, and the camp felt Gui was in the wrong."

(2). Because of the sickness of the woman, KB, a Tsetanma, gave the order to delay the departure a day, but the people were so anxious to hunt that they disobeyed and moved away. KB was so angry at this procedure that he sent his brother Kogu (cf. 91) and brother-in-law, both Tsetanma, and his brother-in-law's brother Edote (cf. 32, 78), an Adltoyui, to rush in and disperse the herd.

(The versions then coincide.) As camp was moving the Daimbega heard the shooting and saw the stampeding buffalo across the river. The Daimbega sang their song in which they vow to do their duty, then started off in a body after the three men. Two of the men ran away, but Gui dismounted and prepared to shoot Black Bear, a leader of the Daimbega. Gui's horse was shot. Gui shot a Daimbega horse in return. Black Bear advanced at a gallop and shouted, "Grandmother (referring to the Medicine Bundle owned by Gui), I'm going to hit you!" He rode up, recited a coup: "This is the way I struck the Ute," and struck Gui over the head with his quirt. He shouted; "If anyone doesn't hit this man I'll shoot him off his horse." Although "ordinarily one is afraid of hitting a Keeper of the Ten Medicines" every one ran up, even Gui's relatives in the society. Each struck him as he rode by. The leader of the society forbade the men to taken any of the meat to camp. One Daimbega was the first to strike Gui. He cut a piece off the tail of the horse killed by the society, put it on a stick like a scalp, and sang this Daimbega war song: "I am at war with everybody, all my enemies are afraid of me. When I die I'll become an owl and you'll still hear me."

(The informant of version 2 goes on with the story): The people were

very angry. KB was angry that Gui, his brother-in-law, had been beaten and was preparing to take revenge on the society. The society was waiting in a body for trouble with Gui and KB. Some older men waited on KB and asked if he knew that a society was to be obeyed. This delegation comprised (version 1) the two leaders of Tonkongya, one of whom was KB's mother's brother, and maybe Setangya (a pipe owner and the most honored man in the tribe; cf. Case 64); or, (version 2), Togudlkyaptw and Kwotompte, (two of the most respected and oldest pipe-owners). They asked KB to desist. He answered that he had been disobeyed. They replied that if the buffalo had been grazing it would have been all right, but since they were moving away so rapidly, the situation was different. Finally the trouble was dropped. Although his companions did not fight back as Gui did, none of them received any reparations because of Gui's actions. Next day the whole camp broke up, with the people moving into the mountains. KB, however, came to Fort Sill for the winter, with fifteen tipis of kinfolk. Next year, the Kiowa all got together again, and KB was there too as a leader.

Analysis: One of the most common crimes on the Plains was "jumping the gun" at the annual buffalo-hunt policed by one of the military societies. This was dealt with on the spot by flogging the man and destroying the horse he was riding. As usual in the Plains, if the offender did not fight back, the policing society made up the damage later. Just as in an emergency, say when a man was in immediate need of food or clothing, relatives and non-relatives made up the necessary articles for him, so at the sundance, the society, having observed that the guilty one had no intention of causing more trouble, hastened to restore normal social life and avoid any feeling of rancor.

This case though is very confusing to interpret because of Gui's immediate past (cf. Case 2). Vindictive behavior of a topadok'i was unusual, especially since people could move away from a topadok'i at any time if it seemed to their honest judgment advisable. Yet the real authority of the topadok'i is revealed. Note the coup-recitation before striking a tribesman. It is like a public statement of status and therefore of one's qualifications for performing police duties of a dangerous and serious sort, comparable to the society song always sung before setting out on serious coercive intra-tribal business (2, 16). Ordinarily it was a grave and dangerous offense to strike a Ten Medicine Keeper.

By announcing to the Medicine ("grandmother") the disciplinary nature of the action, "angry medicine" was avoided. In other words, there was no supernatural sanction risked by those who, acting in the interests of tribal law and order, took proper steps to make the official nature of their action clear.

Case 4

Kwawntei (cf. Case 9), the son of the Taime-keeper, had been killed accidentally. One night some time later there was dancing in a camp when a war party was going out. Owmm, his widow, grieving for the loss of her husband, was annoyed at the festivities. She ran out with a club in her hand and chased people away from the dance. Sun-Brightness, an important warrior, spoke to her, "Owmm, if I ever see you at a dance again, I'll whip you." A year later the war party returned, and there was a scalp-dance of celebration. Sun-Brightness was in a tipi smoking with the old men when he heard Owmm singing. Although no one was supposed to leave smoke-meeting, he excused himself, got a club, and came over to the dance-ring. Taking Owmm's child from her he hit her twice over the head. When she went down he stepped on her head, then back he went to the tipi. People poured water on her head but she died. Kicking Bird, an important warrior, got his bow and began looking for Sun-Brightness. When he found him, he shot an arrow into his hand. Sun-Brightness reached for his gun, but was held. Big Bow, the greatest warrior of the group, grabbed Kicking Bird and the opponents were separated for the night. They were taken to their tipis. The next morning people went to the Taime-keeper who was head of the camp at that time and asked him to settle it. Three old men went with him when he took his Taime-pipe. They went to Sun-Brightness' tipi first. The deceased woman's brother-in-law offered him a horse. Sun-Brightness smoked. Then Kicking Bird accepted the pipe and the dispute was closed. The Taime-keeper was so overjoyed that he thanked the disputants repeatedly, and announced the settlement to the camp. Sun-Brightness shot his gun into the air.

Analysis: This is the only case of severe action against a woman on the charge of disturbing the peace, and it was an intra-topadoga affair. It was a murder case, too. The first incident shows to what extent it was necessary to control one's personal emotions. No one ought to be such a kill-joy as to prevent normal life activities, particularly war. It is certain that if the husband had been killed

on the war path, the wife would have urged on the war party for the sake of revenge on the enemy. She was indulging her grief to the extent of selfishness. Sun-Brightness, acting as he did after a whole year, and towards a woman, and on an occasion of joy becoming a disturber himself, was himself probably out of line. Against a woman, he felt he needed no official "swearing in" of himself. But the probability of his having some unmentioned grudge is uncomfortably high. He not only hit her twice, but stepped on her head. He threatened only a "whipping". We do not know if Kicking Bird was related to Owmw, but he had good reason to act after this wanton killing, to discipline Sun-Brightness for this excessiveness, or for the untimely punishment. The Taime-keeper was her erstwhile father-in-law. He used his pipe, however, in his capacity as chief. It is not quite clear why Owmw's brother-in-law offered Sun-Brightness a horse, except in the interests of a quick settlement. He might have been another son of the Taime-keeper, but not necessarily so. Sun-Brightness was offered the pipe first because he was the last wounded, so was the one likely to take vengeance next. It is unlikely that Kicking Bird, even if brother to Owmw, would have killed Sun-Brightness. Women were not avenged by death. There was no mention of the murderer's curse (see Case 5) on Sun-Brightness, but we know that it followed the killing of a woman in Case 16. Since we have no cases of women trouble-makers at the sundance, we do not know if the societies were called on to discipline women.

Case 5

H—Baitalyi (Sunboy); well-known warrior, but with several cowardly deeds behind him; a bully, and several times outfaced by Big Bow and others; large kin-group of great fighters; large following because he was a topadok'i refusing to play along with whites at a time when this was a much controverted question among the Kiowa (Cf. 59, 70, 71, 72, 73).

W—Wife of Baitalyi.

C—Tenezeiptei (Bird Bow), of good but smaller family; young, even referred to as "a boy"; either FSiH (father's sister's husband) or nephew to H (the term is the same); brother-in-law to White Bear (Cf. 2) with whom he lived; son of a (curing) medicine man.

HB—Setbon, brother of H.

Time—1872. The whole tribe had gathered for a sundance, which, however, was never held.¹⁶

The whole Kiowa tribe which had been encamped for a sundance broke camp and started west. They met shortly some Mexicans from New Mexico with whom they traded horses and bread. The Mexicans also carried liquor. Someone found this out and traded a horse for some of it. H and others got some liquor also, and everyone got drunk. H's mother saw C and said some hard words. C got angry and hit her with his whip, either accidentally or on purpose. Now H had been suspecting C of adultery with his wife for some time. Consequently, H now had the excuse he wanted to get C. H, his father's father and HB took whips and went after C who was at White Bear's topadoga. C and his father were found sitting under a shade. H and HB went up and started whipping C. C's father tried to interfere and they whipped him too. He fought back and got HB down and gave him a beating. The women were yelling, "Somebody stop it!" Some men came and separated them. H was raging mad and said that he was going to kill one of them. H and HB went back to their camp, got bows and arrows and returned. C was by this time in his tipi with other drunken friends unaware that H had come. Someone saw H coming and yelled a warning, but they were too drunk and noisy to hear. People ran "because H was so angry that they didn't know whom he would shoot." H opened the tipi flap and saw C. C paid little attention for he was cutting up with the rest of them. H withdrew quietly. Someone yelled again, and this time C came out of the tipi and turned toward the south side. H was on the north side at the door. H shot C twice in the back. The others came running out, but H wasn't scared at all and walked away. Another man from over the hill, "probably some relative of C, and he wasn't drunk," heard the yelling, came running with a gun and started to chase H. He was going to shoot him when Eagle Heart took the gun away. Eagle Heart was a "pabi" (brother, cousin, or half-brother) of C. H and HB made their getaway. C's two brothers, his father and his sister's son got their guns and pursued. On the way to the other camp two Medicine Keepers met the pursuers and told them to wait. One of the brothers was mad at this interference and started shooting at H and HB. When H and HB got to their tipis the women started to dig a trench and throw up a barricade around the tipi to stand off the pursuers. A terrific thunderstorm broke and temporarily halted the fight. White Bear told the Medicine Keepers to renew their efforts

¹⁶ MOONEY, *op. cit.*, p. 335.

to get peace. About sundown, one of H's relatives called all the rest of H's relatives, sisters, aunts, brothers, cousins, of whom there were a great number, and they all came and camped around H. They were afraid that C's relatives might come and kill or hurt any one of them. They stayed awake on the lookout for trouble all night long. Nevertheless, "C's family was poor and didn't have many relatives" and was at a great disadvantage. C died that evening in spite of the efforts of the buffalo medicine men.

After the death, H moved his camp away from shooting distance of C's and prepared his warriors. H left five horses for C's relatives as a settlement. The horses were accepted but C's relatives were not entirely appeased. The topadok'i of the other camps came to C's people and pleaded with them not to fight. These topadok'i were Kicking Bird, Big Bow, Kwotompte, Potowdlte, Guibwde and three other important leaders. The topadok'i committee went to C's people and not to H's camp. They knew that H was in the wrong so his camp would be on the defensive, while C's people would be the aggressors in taking revenge. The topadok'i first met and discussed the matter among themselves and then went to C's camp. Then they called in members of C's camp for discussions for several nights after the initial visit. This group from C's camp was made up of a large set of relatives, including cousins and more distant kin.

It was said that H would not dare come into the main camp so that a Ten Medicine Keeper might settle the case for fear of being killed by a member of C's band. Consequently he kept within the fortifications. "The topadok'i of the other bands would not send a Keeper to H because this would settle the case definitely and release H from his responsibility. As it was, the case was suspended in mid-air. The topadok'i were only interested in preventing a pitched battle which would spell disaster for C's band because they were the smaller group. A battle would also disrupt the cohesiveness of the tribe. The solidarity of H's family was strengthened because revenge might fall on any member of the family."

The whole tribe soon left this site without notifying H that they were breaking camp. The case was settled by the convenience of short memory. But H never did take official action to settle the dispute. He and his group went off in another direction. C's family let it go at that. H stayed with his relatives nearly a whole year off by themselves. When they came back to the rest of the tribe at the next sundance, the matter had been forgotten. H got a medicine man to give him a "preventative" cure against getting *taido* (the supernatural curse that followed a murderer).

One version adds that White Horse (WH), a relative of C, said that they

should not be satisfied but should get a life to pay for C's death. He said that he would avenge C when he got a chance. WH went with C's brothers and father to the camp where H was supposed to have fled, but H was not there. They whipped the men there and went home. A year later WH met H, dragged him off his horse, got on top of him and beat him. "Now this is the time for you to fight." WH pulled out his knife. "Now show some fight and I'll cut you wide open." H did not resist so WH ground the butt of his knife into H's eye. "Maybe this will make you fight." Still H did not resist. Then a Medicine Keeper came up and said, "WH, I want you to stop and let him go. He has given up. He is not going to fight." WH put away his knife, hit H and told him to get up. "Don't ever again try to show how brave you are. You can't hurt anybody." H's brother came and said, "I want you to accept the best horse I have, make peace and forget everything." WH accepted.

Analysis: The two high families each had their honor to defend, but lack of man power on C's side made vengeance suicidal for them; hence the topadok'i's strong efforts to dissuade C's kin from fighting, after they had refused the pipe in order to fight the case through. It is possible that because of trouble with whites that year (the sundance had been prevented) the other Kiowa were particularly anxious not to have an internal pitched battle. We also see here that outside of the few weeks of the year when the societies were organized there was no formal coercion of any sort possible to restore peace and order. A conclave of important men were able to bring pressure only by reasoning and personal arguments. They could not have convened any group of men to control the camp. Case 2 shows how these same prominent men worked when there was the police mechanism of the societies available.

The case is particularly indicative of the participation and importance of kin support in a serious quarrel. The informant stated that "death vengeance might fall on any member of H's family." If this kind of a feud situation were theoretically possible among the Kiowa it never happened in any other case on record. Note that early in the story a kinsman of C, Eagle Heart, prevented another one of his own kin from killing H then and there at the place of murder. It seems that the strong feeling about killing a topadok'i might account for the intervention of a relative of C which allowed H to escape, and the willingness with which the gun was laid down. C's family was probably particularly outraged

because C was so young. H might have controlled himself better if he had not been drunk. People never forgot this case, for in later quarrels H was often called "killer." However, H's status was such that he suffered no *taido*. He was "purified". This point is discussed in connection with the murder cases specifically.

The quotation from the informant that a pipe was not offered H because it would "release H from his responsibility" does not seem to be accurate because it is to C's kin that it should be offered. H was on the defensive. The final episode (Cf. Case 72) occurring a year later may have involved other grievances than just vengeance for C. Yet it was given in the same breath by the informant as he told the long story. In this epilogue H submitted as any ordinary guilty man ought to. (Cf. 68, "He shouldn't have been angry because his brother was guilty".)

Case 6

A man was known for attacking women when they were getting wood and water. He would lie in wait and rape them. Finally the women talked among themselves and banded together, planning to punish him. They chose a young and beautiful woman and sent her for water while they lay in ambush. Sure enough he came, and as he attacked the girl the women all jumped out and grabbed him. Some took his arms, some took his legs, and some even held him by the hair so he couldn't turn his head. Then they lifted up their skirts, and one by one squatted on his face. Some of them were menstruating and he got blood all over his face and in his mouth. He became very sick and vomited and vomited. When they finally let him go he was very weak. He was sick and very ashamed. A few days after this he died of shame (not suicide). It was felt "he got his due".

Analysis: Rape cases were ordinarily handled by the family of the injured woman alone (84). Here it is clear that this man was a public menace. With public opinion aroused, prosecution was handled collectively by a gang of women. The women's action is unique among the Kiowa, and recalls Comanche practices.¹⁷

The prosecution of most grievances did not usually reach the criminal proportions set forth in cases 2, 3, 4, 5. It should not be forgotten that it was often the aggrieved's prosecution itself that

¹⁷ Information given orally by Miss Jeannette Mirsky.

became the "crime", not the original injurious action. Two of the cases (2, 3) illustrate the institutionalized procedure current at the sundance, which was the only time that the societies were in session. Nos. 4, 5 and 6 show a very much less formalized action, far more prevalent in the cases in general. We now turn to specific actions which were in themselves considered criminal.

The most serious crime was taking the life of a tribesman. This crime incurred immediately and automatically the strong supernatural sanction called *taido*, whereby the killer was pursued to the end of his days with bad luck in hunting, herding and warfare, resulting in poverty, sickness and death to himself. Fear of *taido* was a very real deterrent on intra-tribal murders. Although these acts supposedly involved a supernatural sanction only, the social uneasiness following the perpetration of a murder leaves no doubt that there was a social sanction on a tribal scale.

The cases 5, 7, 16, 18, 19, 20 seem to show that the concept of *taido* stated in terms devoid of human intervention the social ostracism that followed a horrible deed. Popular revulsion from a known murderer might well lead to non-cooperation with him in slight ways, so that he felt he was pursued by "hard luck". Sometimes the group reacted so severely against a killer that he preferred to go away to live with the Kiowa-Apache or stay with white people for the rest of his life as a voluntary exile. The tribal extent of *taido* seems to affirm this social aspect, and also the important fact that certain killers of high status, i.e. successful warriors, wealthy, and with plenty of important kin, did *not* suffer *taido*. A "preventative", and a "cure" for *taido* were mentioned for certain rather prominent murderers (5, 20), which seems to be a rationalization of the fact that they suffered no social disabilities. Moreover, there was no *taido* incurred for a disciplinary killing, i.e. the death penalty (4, 13), and these were always carried out by important men. Informants stated in conjunction with Case 2 that if White Bear had been obliged to kill Guibode for non-compliance, there would have been no supernatural repercussions on his head. This is the best proof that these killings were publicly sanctioned and desirable. A *topadok'i* who killed even in behalf of a follower, however, would be personally subject to *taido* (22). No *taido* was incurred in Case 10. This may support our statement that those of very high status probably suffered no social disabilities, or we may

construe the case as an example of disciplinary killing, which was legitimate in slander situations, therefore free from taido. Accidental killing was said always to be subject to taido (7, 8). The case (9) where it was specifically reported to be absent might have involved special circumstances: this was an intra-kin accident and the Taimé-keeper, the deceased's brother, was an extraordinarily gentle man. Such conspicuous remorse was shown by the killer that no hard feelings resulted, and consequently perhaps no social disapproval was manifested.

The cases of intra-tribal killing may be grouped as (1) accidental killings, (2) slander killings, (3) disciplinary killings, (4) wanton killings, usually during a quarrel.

(1) ACCIDENTAL KILLINGS

Case 7

Gui—Guikwde (Wolf-Lying-Down), onde, kietaik'i; large prominent family; very famous topadok'i.

S—Saneikyaptw, kin all dead, younger and kwn.

Time—1885.

At this time everyone had gone to the sundance except a few who were at the agency receiving rations of cattle on the hoof. Both of the men involved were "responsible persons". S was a little younger. Gui was an elderly prominent person with one eye. Gui asked to borrow S's gun but S refused. Gui said, "Keep your gun. You like it too well." S made an insulting remark in reference to Gui's one eye. Gui grabbed the gun by the barrel and clubbed S. As it struck, the gun went off, killing Gui. S ran off to Ft. Sill where he stayed under the protection of a friendly officer. Nothing ever happened, but S was followed by taido for the rest of his days and died in poverty. A second version says S's family got a Keeper to act as go-between and paid a large indemnity to Gui's family (but S never returned to the tribe).

Analysis: Gratuitous personal remarks invariably brought on a serious fight. The killing itself was an accident. Because he had insulted a man of high status, S felt he needed the protection of the officer at Ft. Sill. Presumably S could never have mixed with the tribe again for fear of Gui's kin. The social aspects of taido are particularly well illustrated here. There is a strong likelihood that killing a topadok'i, especially by a person of low rank, always incurred the death penalty (Cf. 10).

Case 8

Tonok'wt, playing with a gun, accidentally killed Pwywmptei. T tried to commit suicide. The agent put him in jail for protection. Relatives of T gave P's people horses and other valuables, and the case was settled without a pipe. T suffered taido though.

Analysis: Pwywmptei also bore the important name Pwkongya,¹⁸ and might have been the co-respondent of Case 2, now much older if alive in Tonok'wt's time.¹⁹ The necessity for "protection" implies intense feeling on the part of P's relatives, showing that accident was not a mitigating circumstance. Compensation to settle a case did not obviate taido, though.

Case 9

Seit'wdltei accidentally shot Kwantci, the son of the Taimc-keeper. S was distantly related to K. The buffalo medicine men tried to cure K but failed. S volunteered to carry K to the next camp where there was a good medicine man. The Taimc-keeper told him not to be concerned since it was an accident. Toward daybreak K died. Nothing was done about it.

Analysis: The killer's real grief and the forgiveness of the Taimc-keeper might have been the reasons why no supernatural sanction was suffered. The mere fact that it was an intra-kin affair is not sufficient explanation, for other cases of intra-kin killing did incur taido, though prosecution was irregular (18). The Taimc-keeper, by virtue of his position, was in any case bound to moderation and kindly behavior, and in fact, throughout his forty years of custodianship he was consistently a tolerant and peaceful example to the tribe (Cf. 4).

(2) SLANDER

Case 10

H—Poligya,²⁰ alias Esaki (or Podlte?), a topadok'i; onde.

W—the favorite of two wives.

¹⁸ An important fact of Kiowa life was that certain given names, held in a family line, were carried in almost every generation. Since they might be given away to worthy persons, it often happened that a name was held successively by several persons during a generation. Also, a man might be known by five or six names during his lifetime. This is very awkward in these case histories where, except for certain great figures like Big Bow, Baitalyi, White Bear, we may be in doubt as to which of several persons was involved.

¹⁹ Tonok'wt, an eminent medicine man, lived ca. 1860-1900. Cf 31, 74.

²⁰ Poligya is mentioned by MOONEY (*Op. cit.* pp. 164, 263) as one of the signers of the Treaty of 1837.

X—Swonder's aide, a young man, not a warrior.

B—X's brother.

Time—1830-40; story told to informant, aged 80 (1935) by his grandmother who witnessed the episode.

Two camps were separated by a creek. X and his B, both unmarried, lived east of the creek. H camped west of the creek. Games were going on. W left camp for wood. X met her and asked her to go with him. W was startled. She said she liked him, he was good looking, etc., but that she was afraid of her husband; pleaded with him to leave her alone, that she couldn't do it. X was angry, and said, "Go on to your husband, he's cheap and a nobody anyway." W took her wood back to camp. At her tipi, she told H what happened and what had been said, naming the man. H got up and took his weapons, concealing them under a blanket he wore. He waited at a crossing of the stream where all had to pass. X soon came. H waited. Wherever X tried to pass, H stepped in front of him. H (mocking X's earlier behavior): "When a nice young man goes after women he talks in poor, cheap language, begging and pleading. Sometimes they go with him, sometimes they don't. I heard you called me names." He threw the blanket aside. X saw the arrows and ran. H was quick and a good marksman. He followed and drove home two arrows. X fell face down. H went up to him and pulled the two arrows out, wiping them off on his blanket. People saw these events but were afraid of H, and did not come near until he was out of sight back in his camp. Then all rushed up, including B, but X was already dead. B was very angry.

For a long time B grieved and was angry at H. B didn't care if H killed him too or not as long as he could get even with him. So one day B waited for W away from camp. She recognized B as brother of X. W pleaded with B "not to say too much." B said, "I'm going to keep you here until H sees us and kills us both." W didn't know what to do. She was afraid that H would find them and kill them both, so to avoid the issue she went away to the hills with B. Later in the evening, H asked his second wife where W was. Wife said, "She has run away." H knew it was spite on the part of B. He said, "I don't care where she goes, how far she flies. I won't look for her. In the whole world there's only one watering place for her. She must come back here. One of these days she'll come home."

One day H and his camp thought the enemy was in sight. H rode with warriors to meet them, only to find them Kiowas and to find W in their midst. H searched the group for B but did not find him among them. He had a bow and arrow ready to kill B. For a while he did not believe them when they said B was not with the party. H told them all to go and leave his wife with him. He said he would stay with his wife, that he would make

her serve him meat, that he would eat, then kill her and tie her body to a mule and let the mule drag her through the camp. A captive adopted as a son also remained with H and his wife. Now H, who was ugly and fat, and had a goiter too, was a hard man to kill because he had bear power. He had previously told W some of his secrets. "I can't be killed; I have bear power. One cannot kill me by shooting at the leg or chest. My only vulnerable spot is in my throat, under the collar bone." Consequently, while she was cooking, W stole an arrow of H's and broke it, concealing the pointed half under her blanket. Several times she went over and tried to hug him, urging him to take her back, saying she still loved him. He kept pushing her away. When she got a chance she drove the arrow home, then ran away. H growled like a bear (his medicine power). He pulled a knife and chased her, but fell dead before he caught up with her. The captive rushed to camp and told the people, "My father has been killed!" W ran away to the mountains. The people buried H. All were angry, for they had lost their "father". H's brother, also a chief, gave instructions that W should be killed on sight.

It was winter. W was cold in the mountains, and came back to camp. In the dark she sneaked into a poor tipi on the edge of camp and made a fire to warm herself. The man in the tipi said, "Who are you?" "I am so-and-so," W answered. The man got very angry. "We don't want you here. You made us fatherless." He took an axe. She was so cold and frozen it was hard for her to move. She tried to run off, but at the door he hit her over the head with the axe. She ran out. He announced to camp that he had struck her, and she had run away, but that he believed he had killed her. "She's probably dying. We'll find her in the morning."

In the morning they found her dead. Her folks got the body, dressed it up, and buried it.

Informant's comments: If a man made advances, was refused graciously, and took it without slandering the husband, when a woman told her husband, he did not set out to kill the potential co-respondent. The insult caused the killing. B did not avenge X's death because he was afraid of H, and knowing H had power did not know how to kill him. There was no calling in of the Ten Medicines because H did not fear the brother or family of the boy, and "H was too powerful a topadok'i."

Analysis: The case properly falls into two parts: (1) prosecution for slander, (2) prosecution for absconding. As a signer of the Treaty of 1837, Poligya must have been one of the most important men in the tribe. Casting aspersions upon a person of so great honor was undoubtedly, in Kiowa minds, a more terrible offense than insulting a man of no distinction. The latter would have little to lose by

such a slanderous attack, but a topadok'i, whose following depended on his reputation and prestige in competition with other topadok'i, stood to lose his entire social and political position if it were rumored about and believed that he was a "nobody, a coward". Such words, like the malicious rumors of a "poison squad", if not immediately disproved, might undermine the leader's prestige, and seriously affect the size of the following. H acted so quickly and so violently that no one had time to call a pipe-owner, even if they dared to interfere. It may have been felt that the death penalty was legitimate in slander cases, so H's actions were not condemned, once the cause was known. Taido did not follow apparently, either because this was a justifiable homicide, or because H was so great a leader, so feared for his bear power, that he was independent of ordinary social sanctions. In this part of the story H was not angry at his wife for she was in no way at fault.

The second episode illustrates absconding as a means to "get even" by a man too low in status, too young and unprotected, or too scared, to face H personally. The woman was not considered an object of love. Because the absconding constituted retaliation in resentment over H's violent reprisal, H was extraordinarily harsh with W. As a participant, W was, of course, guilty, even though H knew her acquiescence was forced. Consequently, since B had disappeared, W had to stand for their joint action. In self-protection she killed H. This is the only case in which a woman killed someone. However, in killing H, the band chief, W found the whole of his following against her. The topadok'i was after all the "father" of them all, and his death was quickly avenged. This is the only example of a retaliatory killing in the tribal record, for there was no *lex talionis*. Certainly murder of a topadok'i was particularly bad, because not only his following, but the whole tribe, was deprived of his qualities as a leader, his wisdom and experience. Any man's life was more valuable than a woman's, while death of such a leader at the hands of a woman was heinous. There could be no justification for her actions. Undoubtedly she would have been killed even if no death sentence had been pronounced against her. There may have been a death penalty regularly invoked against anyone who killed a topadok'i. This would explain why Saneikyaptw was never able to return to the tribe (7).

Case 11

H—Podlte, a topadok'i, several wives.

W—.

C—Zopkiade, also topadok'i, five or six wives.

H had several wives. One of them became dissatisfied because she thought he was slighting her and not giving her as much meat as the others, so she left him and went to live with her family in another camp of which C was leader. W was a pretty woman and C flirted with her. One night C sneaked up to her tipi and made love to her and asked her to come away with him. She refused, saying that she might still want to go back to her husband. He said, "Are you afraid of your husband? He is a nobody, a coward." She resented his calling her husband a coward and told him to go away. Later the two camps joined. Both H and C were of equal rank and shared authority. W spent the night with H and told him how C had insulted him. The following day H met C while watering his horses. He drew an arrow from his quiver and told C to stop. He said, "I have been looking for you. Women are foolish and will believe any story which is told to gain their love. Why did you tell my wife that you were a greater man than I and call me a coward? You shall die for this." He drew his bow and shot C dead.

Some of H's relatives got a Ten Medicine keeper to offer the pipe to C's family and gave them two horses. The matter was settled, but H suffered *taido* for this.

Analysis: In spite of differences, it is possible that this case from another informant is another version of 10, for Podlte was given as Esaki's alternate name; the words, "a nobody, a coward", were the same; and the killing occurred by a creek. Since the story is not presented in such great detail as Case 10, we assume that the informant did not know the facts as well. He described the opponents as status *equals* and may have put in the *taido* and the pipe aspects on the basis of normal expectancy in Kiowa cases. In this version, C's kin were in a position to seek vengeance, and so a pipe was sent for peace.

If this is the same story, the differences of procedure *with the shift in the status aspects* is strong proof that there was a recognized behavior pattern expected for persons standing in certain status relations or on certain levels. Slander against those in high positions was criminal, so was wiped out with death no matter what the rank of the slanderer. But this murder too was resented by the

kinsmen. A low-ranking or small group of kinsmen, however, could do nothing face-to-face with the murderer, whereas a stronger group constituted such a menace that measures for pacification were taken. The attitude towards women here expressed should be noted, that they were considered not competent to judge tales and were, therefore, easily deceived. This may be the Kiowa rationalization for not prosecuting the wife in almost all absconding and adultery cases.

Mooney²¹ records the following inter-tribal slander case where the death penalty is indirectly invoked.

Case 12

C—Red Sleeve, a Comanche chief.

K—Setangya, a very great Kiowa chief (Cf. 44, 64).

A Comanche, Kiowa and Pawnee group was raiding together. They met a band of white people. C wanted to attack them, but K counselled otherwise. C jeered at K, calling him a coward. At that K resolved to attack immediately with all the men. In the battle C was wounded. He called to K for help. K refused because of the taunt of cowardice, so the whites killed C.

Analysis: The circumstances were rather unusual in that the slanderer was an alien. This might have aggravated a great warrior's resentment. Because of war party discipline, it is unlikely that K would have killed C on the spot, particularly since there was a group of Comanche in the party. But K brought about C's death by negative action.

(3) DISCIPLINARY KILLINGS

Four examples of the death penalty for disciplinary purposes have already been given. In 10 and 11, slander was thus sternly put down; death was also the price for killing a topadok'i (10); and where a woman indulged her private grief to the extent of interfering with public well-being, she was killed (4). Case 4, and perhaps 10, may illustrate sanctions against women who arrogated unto themselves authority to deal with public matters in a culture where women played no public political role. The

²¹ MOONEY, *op. cit.* p. 286.

following additional case shows the death penalty invoked for treason.

Case 13

Back in the time when the Kiowa were at war with the Comanche a man and his wife were out hunting. It was winter and they went into a cave for shelter from a blizzard. During the night a man came in for shelter. In the morning they saw that he was a young and handsome Comanche. As the Kiowa man was going out of the cave the Comanche jumped on him. They struggled and the Kiowa called to his wife to take the Comanche's knife and kill him. The woman got the knife but the Comanche pleaded so eloquently with his eyes and was so handsome that she did not want to kill him. The husband told her again to kill the Comanche but she did not. Finally, after a terrific struggle the Kiowa killed the Comanche without his wife's help, and scalped him.

When they returned the husband told the story in the smoking tipi. The wife's older brother asked: "Why didn't you kill her then?" The husband answered that he was afraid that her family would not believe the story. Then the brother left the tipi, got his bow and went to his sister's tipi. He called her out, and as she came through the door, shot her dead.

Analysis: This woman's actions, jeopardizing the life of a tribesman, merited, from her own kinsman's lips, the death penalty. The husband's restraint in not killing her at the time illustrates the Kiowa pressure for peace: the offense might not have been understood by her kin, and a serious quarrel might have ensued. The husband brought the scalp as proof of his signal valor. The wife's brother, shamed that his sister had misbehaved before such a sterling warrior *who was his brother-in-law*, put her to death himself. This event took place in a very remote period, the early part of the nineteenth century. Possibly the tale had been handed down as a moral example to illustrate the terrible consequences of a wife's derelict behavior, and also the extremely close bond between brothers-in-law.

(4) PROVOKED OR WANTON KILLINGS

Finally we come to a number of murders, some quite wanton, some as revenge for a grievance of some sort. The most important example has been given already as Case 5, which almost developed into intra-tribal war with kin mobilized on each side, and barri-

cares up to protect the tipis. Those that follow were not so disruptive.

Case 14

H—Iapa, alias Jonko; may be the owner of a Ten Medicine Bundle who bore the same name; son of Tōkoide, who was notoriously cruel to women (Cf. 16, 17, 28).

W—Akōbai, daughter of the Taime-keeper (Cf. 11).

Time—1876-7.

H was a doctor. One day he happened into a tipi in which a sick young woman lay. She said: "I've heard you are a good medicine man. If you cure me, I'll marry you." Since she was good looking, he did his best and cured her. She was then his wife.

However, he was uncontrollably jealous and whipped her often and severely. Once in the presence of her two brothers he struck her on the head with something heavy so that she was unconscious for a long time. This made the brothers very angry. They took her away to their home. "They had the right to do so." The husband was afraid to take her back from the protection of her brothers by force, so he went to them and begged them to let her return. H wrongly imagined she was in love with another man.

H kept track of her and once saw her when he camped at Ft. Sill. She had started with another woman through the woods late in the evening along the trail that led to the slaughter house. H followed them and stopped them. The other woman spoke up and said, "What do you mean by stopping us?" H: "Go on ahead. This is my wife." He asked his wife to come home but she refused. H: "Why won't you come? You are my wife. I cured you. You promised to live with me." W: "I'm not going with you." H: "Why?" W: "I'm through. I quit." He asked her a second time and she refused, so he brandished a butcher knife at her. H: "If you don't come with me I'll kill you. You are my wife." W: "I won't come." Other woman: "What do you mean?" H: "You go on. This is my wife." He asked a third time, but she refused. H: "What's the reason?" W: "I'm not going back." H: "I'll ask you once more, and this will be the final time. If you don't come, I'll kill you. Are you coming with me? You'd better come, and everything will be all right." W: "I'm not coming." H pulled out his butcher knife and grabbed his wife by the hair and stabbed her in the breast. The other woman screamed and ran to the camp and told the others. W's two brothers then got their guns and set out to kill H, but they couldn't find him because H ran and hid away under the driftwood in the timber with his body under water. He sat on a log, with

only his head above the water. When the people came the wife was dead. It was too late for a doctor.

H stayed hidden until after dark, then came out and went to his brother's tipi. His brother asked him why he fled. B said that since he had killed the woman he should be a man and not run off. H should get his gun and die like a man—but if he was going to run away, he didn't know where he could go unless it was to a certain mountain. If he died like a man the people wouldn't talk about him so much. H said he would go there to the mountain and hide. It was midnight, and he called his mother to fix something to eat as he had no supper. He ate in the darkness. They gave him dry clothes and some food to take along, and his brother set off with him on horseback to the mountains south of Mt. Sheridan. They took a complete outfit: matches, quilts, etc., and found a rocky place where H could hide. His brother brought food to a certain place at night every four or five days. H stayed there about a month until it began to get cold.

Meanwhile, the case was reported to the authorities at Fort Sill. The agent said²² the murder was a terrible crime. Kiowa chiefs were called and asked to take action. They said they would do anything the agent said, kill him if necessary. They said he was young and foolish and ignorant of white laws, however, so asked that his life be spared if possible. Scouts were sent out. The brother who brought him food advised him to surrender. (Another version states that he was apprehended near Lawton.) So H came at daybreak outside Fort Sill. The agent states in his government reports²³ that Dangerous Eagle and Big Tree brought H in. Sanekyaptw (cf. Case 7) was called as interpreter. Sanekyaptw asked them why they had come, and they told him that H was the one who had killed the woman and that they were going into Ft. Sill. Sanekyaptw said they had done the right thing, and that he probably wouldn't get a long sentence.

When they came into Ft. Sill the interpreter went first, and the officer asked them to come in and sit down. He asked them what they wanted, and they told him they had come to surrender. The officer said that H had done the right thing to come in, and that if he would tell him why he had killed the woman he would get off easy. H told how he had been married, and how he had come to kill his wife when she refused him. The army officer told him that he had done the right thing, since it was his wife and that the law would back him up, but that he'd have to sentence him. He said that he would have to go into the guard house that night,

²² MOONEY, *Op. cit.* p. 341.

²³ *Ibid.*

but the next day he would have to mow the lawn and clean up the whole post and then he could go free. H agreed to this, and his brother went home. In the morning they let him out and he cut the lawn and burned the weeds, etc. till the whole post was cleaned up. H worked in the garden for a year and a half, and then was set free. "He was a different man when he came out." H was pursued by *taido*, however, for the rest of his life. He went to live with the Kiowa Apache, where he married and was always very good to his wife. W's relatives made no attempt to get revenge.

Analysis: This is the most wanton murder on record. Although kinsmen might have ordinarily hesitated to kill in retaliation for the death of a woman, this unreasonable act angered W's kin to that point. If W had been guilty they might not have felt so strongly. W's brother's "right" to intervene to protect her at first should be noted as an important point discussed later. After H's fourfold request of W and the murder, H fled to his kinsmen, who, having failed to convince him of the advisability of dying "like a man", helped him escape. Kinsmen were always dependable support. It is likely that flight of this defendant constituted a moral victory for the plaintiff and his kin. Social ostracism, of course, followed a man who ran away, and even more so if he went to Ft. Sill for protection. No wonder H was pursued by *taido*. It is of interest that both H and H's father, *Twkoide* (Cf. Cases 16, 17), killed women; they both seem to have had uncontrollable tempers.

Case 15

A—Aakwma.

T—*Twkoide*, the *topadok'i*; signer of the Treaty of 1865²⁴.

A killed the son of *Guitschi* in a fight over a woman. A was a close relative to T, while the dead man was a distant relative of T. T sent for three Ten Medicine Keepers and offered a horse to each one's Bundle. He sent the Keepers to the victim's father, *Guitschi*. This happened a very long time ago.

Analysis: A man named *Tsehi* was one of the signers of the Treaty of 1837.²⁵ If this is the same person as *Guitschi*, it is possible that the victim was of very good family. One would assume that a close

²⁴ MOONEY, *Op. cit.* p. 186.

²⁵ MOONEY, *Op. cit.*, p. 170.

relative of the topadok'i was also of good status. It is not surprising therefore that Keepers were sent to sue for peace. It is likely that the quarrel involved men facing each other as husband against co-respondent. T probably sent the Keepers as a relative of A, not as his topadok'i. T was a Keeper himself. Keepers did on occasion offer the pipe to their own relatives (Cf. 32). The gifts to the Keepers were important. They are rarely mentioned in the cases, but it is probable that a gift of a horse or less was made by the defending group to the peace-maker every time he was called out. This gift may not have had to be made at the moment, but might have been given any time later.

Case 16

H—T_wkoide, a smaller topadok'i, and Ten Medicine Keeper, second rank (Cf. 15, 17, 28, 85); possibly son of T_wkoide of Case 15.

W—one of three; onde born.

C—Kietadla, an Adltoyui, a young man, also second rank.

Time—about 1865.

H was a "mean", "not very good" man. He was a war chief. Some times he would steal women by force from other men. He had three wives, whom he whipped a great deal because he was very jealous (Cf. 28). One day while H and W were both in the tipi a woman opened the flap of the tipi and peeped in. When she saw them both there, she left. She came again and left immediately without saying anything. He suspected that she was being sent by a young man who was trying to establish a liaison with his wife. He went out to spy on them. He saw the woman go inside his tipi and then come out with W, both carrying ropes with canvas (for wood carrying). They walked toward the timber. From the other end of the camp he saw a young man follow in the same direction. H picked up a knife and followed them. When he got into the timber he saw C and the two women sitting talking together. He rushed up, stabbed his wife several times and killed her instantaneously. The other woman and C ran off. The parents of the onde girl were angry, but "when they heard that she had been caught in the act they cooled off."

C went into hiding. C was a member of Adltoyui. The society heard about his troubles. They sang an Adltoyui war song: "Adltoyui are calling me, I shall go there." Then they called to H to come if he wanted trouble, made fun of him, and followed him to his camp, where his Ten Medicine Bundle was. H's own camp was against him; he left his Medicine and hid out while the Adltoyui were looking for him. Then the Adltoyui went to another Keeper of the Ten Medicines and paid him to bring the pipe to H's brother so that peace could be made. The Keeper

presented the pipe to the brother of H and named whom he was representing. In this case he was representing C's society that was intervening in behalf of one of its members. He told what the society was willing to give if the H would not take revenge. Each member of the society chipped in blankets, ponies, etc., and revenge was forestalled. The Adltoyui were assisted by C's relatives. They gave W's relatives some gifts. They afterwards composed a song about the event. However, because of the murder, "after this H's heart became poor like a pet dog, and it became taido and had no power." He kept his Ten Medicine, but he was no longer topadok'i. "For killing his wife, H was reduced from second rank to third in people's eyes. While he was in third rank he cut off the nose of one of his remaining wives thereby being reduced to an even lower place in the third rank because he was cruel to women. C had been in second rank before the affair and his rank was not affected."

Another version relates that H inherited his Medicine Bundle after the event, and by virtue of it, was raised to the second rank. However, continued disorderly conduct toward wives reduced him again.

Analysis: H acted as if he had caught his wife in flagrante delicto. Such was not the case, yet her actions were suspicious. Her kinsmen considered her actions so, consequently, in contrast to Case 14, took no action. The death of W did not soothe H. He still sought to wreak vengeance on C. Despite one death, it was necessary to bring a pipe to prevent another. The intervention of the societies in behalf of one of their members was a sundance procedure only. We have here the fullest description of how a society intervened. Here the society seems to have acted before any of C's relatives. The singing of the war song by the society, and the words, "H's own camp was against him", seem to indicate that this was a disturbance of the peace somewhat comparable to Case 2. In spite of their jeers, H could not be found to smoke, so H's brother took the pipe in his behalf (Cf. 2). Peace could thus be forced onto a man by handing a pipe to a relative, usually a brother. The assumption probably was that brothers were equivalent. The responsibility for making H keep the peace was probably laid squarely on the relative.

A Medicine Bundle, though tending to elevate its owner, was not sufficient to maintain him in good standing without proper behavior. This case shows how a man might rise and fall in status according to his actions. H was lowered probably because he was not entirely justified in his prosecution, and because he was cruel to women. Note the description of the workings of taido.

Case 17

H—Tokoidé, Ten Medicine Keeper; excellent war record; the irascible one of Case 15, 16, 28, 85; two wives.

G—an Arapaho girl.

S—son of H, Pododlité.

Time—late, after 1885.

S was courting an Arapaho girl. When H saw her he began to flirt with her. S went on a war party, and while he was gone H married her. When S returned he heard about it. He called his mother and asked her why H had done this. She told him she had tried to prevent it, but H was stubborn and hot-headed. He had given two horses, some arrows and other gifts for her. S spoke to his father. "What are you doing married to this woman? You are not going to live with this woman and keep her here as your wife." "What's the matter?" said H. "She is my wife. Why shouldn't I live with her? Are you going to fight with me over her? You know my record as a brave warrior. Are you going to fight me?" "Yes, father, I have always heard that you were a chief and a brave man. Are you a chief today?" "Yes!" "All right, chief, here is something for you." S struck his father across the face with his whip and went for his gun. H grabbed the woman with one hand and his knife with the other. He stuck the knife into her stomach, cut her side wide open and killed her. "All right, here is your woman. Take her." S started to shoot but some men took the gun away from him. So he beat his father with his whip. S swore to kill his father. Four men were present. They grabbed S and kept him from acting; made him give his word to do nothing more.

Analysis: The murder of the Arapaho girl was particularly cruel. She seems to have had no kin to defend her except S. H was at this time a fairly elderly man—it is twenty years after Case 16. No pipe was brought, possibly because the fight was between close kinsmen, even though S swore to kill his father. It is noteworthy that a promise to refrain, exacted by the spectators, definitely settled the quarrel.

Case 18

G—Guikongia, Black Wolf.

T—Tedlyiete, G's unmarried brother.

One day while G was herding horses T decided to run off with G's wife. G had been suspicious and was on the lookout. He got back to the camp before they left and discovered them in his tipi preparing to leave.

He was very angry. "Brother, you have wronged me. I am going to kill you for it." He pulled out his pistol and shot T dead. Then the mother and father and sisters cried out, "G has killed his brother." Father asked him why he had done it. "T went with my wife. That is why."

This homicide was "within the family so nothing was done about it." They saddled up T's horse, painted it up; buried T and killed the horse at the grave. T's mother and sister cut themselves and wore old clothing. "Killing a brother is the most terrible thing a man can do." G was *taido*, and had bad luck for the rest of his life. On buffalo hunts he would think he was killing a fat buffalo but when he butchered it the meat would turn out to be the leanest in the kill. He could never get good meat."

Analysis: A man prosecuted his brother for wife-stealing, but there could be no avenging this death because the family could not divide against itself. This episode was probably one of the most terrible in the history of the tribe, for of all kinship bonds, that between brothers was the strongest.

Case 19

YBB—Young Big Bow, son of the great Big Bow; a full blood (Cf. 30 51).

X—a captive's son, not a full blood.

Time—about 1890.

There was a quarrel between YBB and X over the ownership of a certain horse. Later the horse was in the possession of X when it was found dead. X suspected YBB of killing it, and retaliated by killing YBB's best horse. In turn YBB killed him. "It is believed by some that YBB intended to shoot only the horse." YBB went to his older brother's camp. The brother said to let the man's family make the first move. (The ending has two versions):

(1) The captives and descendants held a meeting to decide what to do in the case, whether they should kill YBB. The father of the dead boy spoke against any action of any sort. He was afraid it would cause trouble in the tribe. He insisted that the whole matter be dropped. YBB left the tribe and went off for two or three years. There was a rumor that years later a brother of the dead man met YBB and was going to shoot him. The difficulty was resolved by YBB's promising the brother a horse and saddle. YBB became *taido*.

(2) There was a great deal of trouble and "almost war" between the two families. Finally the matter was settled when YBB's family gave a great many horses as indemnification. The two families then got together for a feast and smoked a pipe.

Analysis: Kin mobilized on both sides following the killing, but the captive's kin, being of low status, in one version did not dare do anything against the great Big Bow family; in the other, there was adequate compensation.

In the following two cases of killing, procedure was different, and, according to Kiowa standards, criminal. A death which occurred during a drunken fight was avenged by killing by sorcery, because the avengers "were too old" to do otherwise. Sorcery was only used by the old and weak; women could not practice it; it could only be procured from a medicine man who was also a kinsman.

Case 20

Hot—Hotoyi, brother of Kopahodl's father; a famous medicine man; brother of Maientende's mother; in the topadoga of Setangya; distant relative of Kwohohon, a Ten Medicine Keeper (Cf. 23).

Kui—Kuitokogi'a; a Ten Medicine Keeper, but not a medicine man; MB of Teneizedlbei; topadok'i; Koisenko society (Cf. 32, 78, 79).

Tenei—Teneizedlbei, later called Taiki (Bad-luck-man), nephew of Kui; in topadoga of Seittemkia.

Kop—Kopahodl; son of an old man.

X—Dwyanoi, an Apache.

Time—maybe 1895.

Three brothers-in-law (i.e. unrelated, but married to three sisters), Kop, X, and Tenei were on a drunken spree with a keg of whiskey. Kop would not give the two others a drink. In the struggle Kop was killed. Each of the two survivors claimed the other did the killing. Tenei, however, became taido. He was afraid of revenge, so hid at Elk Creek while his family sent some horses to Kop's family which were refused. Finally he went to his camp when he heard revenge was going to be taken and his relatives were all sticking close together.

Since the father of Kop was too old to avenge his son, his daughter urged him to use sorcery. Hot, Kop's father's brother, consequently started to work sorcery upon Tenei. Powowdl, a medicine man related to Tenei, gave Tenei an otter skin to wear around his neck and attached all the things taboo to Hot's medicine. This was a protection against Hot's sorcery. Tenei's wife died. The fact the he couldn't get another for a long time, Tenei (and the Kiowa) considered taido and not the result of sorcery.

Then one day Kui and Hot and Tenei got drunk. Hot threatened Tenei and Kui over the death of his nephew Kop. Kui and Hot started to fight and were separated. Kui said to Hot: "You have threatened me but I am not afraid of you." Hot replied, "You think you are a bigger man than I, but I predict that you will not live until the next winter."

One night Kui dreamed that something was going to kill him. His Ten Medicine spoke to him and said, "Get behind me quickly for protection." Kui was not quick enough and something got into him. The next day Kui gave a feast and called his relatives. "I have been bewitched to die. But Hot is going to die before I do." He took his gun and went out to look for Hot. A woman who overheard Kui threatening Hot ran over to Hot's tipi and reported it to Hot's wife and nephew. When Kui came up, Hot and his nephew were prepared with their guns. Setangya held Hot and Maientende, nephew of Hot, grabbed the other. Hot belonged to Setangya's camp, i.e. Setangya grabbed the member of his own group. The fight then stopped.

"Maientende and Setangya were acting in their official capacity as topadok'i in stopping the fight. Their word carried weight." In this episode, however, Setangya told Kui that he would not defend Hot just because he was a member of his own group. He was trying to be objective and non-partisan. He honestly thought that Kui was in the wrong. He then thanked Kui profusely for listening to him and dropped the matter. Maientende also thanked Kui for his cooperation, declaring his sympathy for Hot also. However, the prediction came true. Hot used to demonstrate his power by swallowing a red-hot rock in the sweat lodge. Kui used his power to kill Hot the next time he did this. Consequently, Hot swallowed the rock and died. Shortly after, Kui died from the "thing that got into him."

Pwawdl told Tenei to go up to the mountain and fast until he got rid of his taido. He did so, praying to no one particular spirit, and had a vision of a road-runner as big as a buffalo bull. This spirit chastened him, but gave him no medicine power. Later it was discovered that Tenei was innocent.

(Another informant contributed this incident, which again illustrates the general feelings for peace): Kwonbohon, a distant relative of Kop, decided to avenge his death. Kwonbohon went to see Kop's topadok'i, Setangya, and asked whether they shouldn't have revenge. They decided to take revenge. Then Maientende called a meeting of the relatives of Kop of which he was one, and at this meeting Maientende, Setangya and Kwonbohon decided that Hot had bewitched Kui and his relatives, and since Tenei was taido already this was revenge enough. The others agreed and revenge was not taken.

Analysis: The case comprises two parts: In the first part, the killing was more or less accidental, but Tenci was considered guilty because he had bad luck. The peace offerings of his family having been refused, they coalesced for mutual protection. No pipe seems to have been offered. The plaintiff's family had access to sorcery, which the opponents apparently expected to see put into use, for they prepared a preventative. In the second part, the quarrel was taken on by two other members of the respective families. Hot in anger then used sorcery for which he was well known. The Ten Medicine Bundle was not used for counter-sorcery. Kui was an excellent warrior, and started out to avenge with a gun like a warrior, though he was stopped by other eminent men. Eventually the two men killed each other. The "purification" from taido and the subsequent reevaluation as to Tenci's innocence may be rationalizations to account for his suffering social disabilities in the long run.

The reason why it is construed that sorcery is criminal procedure in itself is best illustrated in the next case.

Case 21

H—Mōkin, a Mexican captive, and the Taimē-keeper's assistant; he had an extraordinarily responsible position for a captive for, having learned the ritual, he was for years in charge of the sundance for three owners who did not know it as well as he; also had owl power.

W—wife of Mōkin.

C—Toyop, a captive's son, apparently with fairly well off kindred.

HBs—Mōkin's foster-brothers, very good family.

Time—1888.

After the Oak Tree sundance the tribe moved up to Eagle Heart Spring and camped there. The weather was fine. During the warm evenings C made himself conspicuous by mounting his horse and prancing around the camp very enthusiastically. He was happy because he had W as sweetheart. He was planning to abscond with her. While the people were camped here, C decided to go up to the mountains and fast for four days. C returned in two days but in the meantime H had taken his wife and daughter to informant's father's camp to build a sweathouse for his own medicine. While H was occupied with his sweatlodge, W would leave her tipi every night and go to C. A short time later when they were in

Anadarko, C tried to elope with W but failed somehow. Later when H went away to fulfill some religious duty, C, W and W's little daughter ran off. C's mother cried when she heard the news because she was afraid of H's power. H sent for his three foster brothers and they all went to C's place to take horses from C or his brothers. Each of HBs took a horse, including C's best one. H went along but took no horses. Then the HBs and H went into the Cheyenne country to look for C and W, but they couldn't find a trace of them. H went up into the mountains to fast and to use his Taime sorcery.

Later the couple returned with H's daughter. The little girl had become blind. It was said that H's sorcery was being paid for. The couple took sick and had to be cured by Quanah Parker, a Comanche chief. H's daughter died. Then H dropped the whole affair. No one gave him a peace pipe because HBs had gotten horses and the matter was considered settled. Informant was especially struck by H's despair and suffering. He "had never seen anything like it. It made an old man of H."

Analysis: The Kiowa insisted that whenever a man caused death by sorcery, there was an automatic supernatural repercussion whereby this death had to be paid for by a death among his own kin, usually his wife or children. It is because of the supernatural sanction, falling here with inexorable precision, that we have construed sorcery as criminal behavior in itself. H presumably took no horses on the raid because he still wanted personal revenge on C. C and H seem to have been equally balanced in rank, neither being full blood, so H could face C with equanimity (Cf. 59, 60). Failing to find C, H resorted to sorcery with its usual repercussions. H paid for his actions with his own daughter's life, and it broke his heart.

Hitherto we have considered the crimes of disturbing the peace, killings, slander and treason. We now turn to crimes arising from improper behavior towards holy institutions.

VIOLATION OF THE PIPE

Pursuing a quarrel after having smoked the peace pipe brought down immediate supernatural ill will usually in the form of death to a kinsman. Being a crime, it also called forth violent social reaction. The aggressor was immediately threatened with ostracism from his own kin, who acted in self protection to prevent

death falling on one of their number. Besides, a topadok'i, seeing the tribal peace mechanisms flouted, might for once come to the active defense of the aggrieved. It should be noted, however, that merely refusing to smoke a proffered pipe did not subject one to the curse, for it meant one preferred to defend one's honor in spite of the desires of the community for peace (5, 47, 67). Refusing a pipe four times (or four pipes) did constitute violation of the pipe, and so brought the curse down upon one's head (2).

Case 22

H—Guikwde, Wolf-lying-Down; onde, very prominent topadok'i (Cf. 7).

W—his wife.

C—Adleicitei, in the topadoga of Kwonbohon, but not related to him.

W and C had an affair. H, however, smoked the peace pipe. Sometime later during an antelope hunt H rode behind C and shot an arrow into C's thigh. Kwonbohon, the topadok'i of C, went to H and told him that he was ready to fight in defense of his follower and pulled out a six-shooter. They were separated by some young men standing around. 'In shooting C, H had violated 'the law', since he had already smoked the pipe. If he were attacked, his own relatives would not defend him for fear of calling down upon themselves the curse of the Ten Medicines. On the supernatural side there is danger in the curse of the Ten Medicines for H; on the secular, in attack by C's people, but had Kwonbohon killed H in defense of C, Kwonbohon would have been taido, nevertheless.

Analysis: The oath on the pipe had been violated, hence H forfeited all support of his kinsmen, to say nothing of incurring personally the curse of the medicine. Even though the topadok'i came to the aid of his non-kin follower, he could not have killed with impunity. No second offering of the pipe was possible after violation. Note that young men could separate two very important persons.

Case 23

H—Lone Wolf, topadok'i of a large group (Cf. 1, 46, 54, 68).

W—his wife.

C—Pwapadte, in topadoga of Setangya.

Ωpeigudl, brother-in-law of H (Cf. 1).

C committed adultery with W, and after the peace pipe was given to H the case was considered closed. H's topadoga was larger, and he had

several other topadok'i with him. Later H took some pot-shots at C with a bow and arrow but missed. Ωpeigudl upbraided H for violating the law and was answered that C had made love to W again. Ωpeigudl investigated the case and found the charge untrue. Hotoyi, who had a small Taime gotten from the Cheyenne, was called in by a relative of W. He went with a small pipe to C's father and obtained peace. Hotoyi reported the settlement to Setangya who said, "That's good. We won't have to be uneasy now. We won't have to be prepared for trouble."

Analysis: Violation of the pipe brought a strong reproval even from a brother-in-law, a most respected relative. Unjust aggression against C made him the one likely for revenge, so C's relatives smoked the second time. C might have smoked a Ten Medicine pipe, but H could not have because he had violated it. It is noteworthy that it was Setangya's smaller band group that is mentioned as one likely to be uneasy during a quarrel. H was the head of a large, strong topadoga. H's powerful position, though, was no justification for his violating his oath for peace. This is the only case on record where a charge was disputed, and evidence was gathered by a third party to substantiate or refute the accusation.

Telling lies in general involved supernatural sanctions, even if not sworn on the pipe. The following case shows that cheating was not considered as serious as lying.

Case 24

Z—Zempadlte.

H—Hωbabte.

Z and H bet on a cross country foot race, one to go to one spot, the other to another, and each accompanied by witnesses. Z won, and received a horse as the prize. Z was later found to have sneaked a ride on horseback from a Comanche, so had cheated. H demanded the horse as a result and took it. Whereupon Z shot the horse, and H did nothing.

Analysis: This quarrel was not a crime, but a grievance, and is put in here to illuminate their concepts of lying. Cheating was not considered in the divinely-sanctioned category, unless of course F had sworn on a pipe that he had won fairly.

Besides violating the oath on the pipe for peace, we have a number of cases where there was real desecration of the holy paraphernalia.

Case 25

H—Kwónbohón, Ten Medicine owner, distinguished personage (Cf. 20, 28, 29); several wives.

W—his wife.

C—Biote, a close friend of H.

At one time H had gone over to spend some time with another wife in a nearby village. C came to H's tipi one night while he was gone, pulled up the stakes, and put his hand inside to signal to W. This was sacrilegious because the Ten Medicine was kept in that tipi. W came outside to meet him. Later she came back to the tipi alone. They set a date to go on a buffalo hunt together. H did not suspect C; they had been close friends. When the time for the hunt came, C borrowed a horse from H and then went off with W. When people saw them out on the hunt together they began to talk. Things began to happen to C: his horse split a hoof during the hunt; while he was butchering he cut his thumb. He was suffering the supernatural penalty for having desecrated H's tipi.

When they returned to camp, C openly took her to his relatives' camp. H decided to kill the herd of C's father, but H's brothers and cousins, hearing this and "sympathizing with C's father," plotted to take the best horses to prevent H's killing them, and to return them later after the squabble had blown over. A party of five or six, including H, his brothers and cousins, came to C's father's camp. While H was shooting the wild stock, the others removed the broken horses to a safe place. The mother of the Keeper Zeibat'ei came up and took the gun out of H's hand after he had killed three horses. H obeyed this woman because she was associated with one of the Ten Medicines, so he made no resistance.

That night the brothers, cousins and relatives and friends of H gathered in his tipi. The meeting was not called by anyone. It was a spontaneous assembly of the relatives, a regular occurrence when a man was in trouble. His relatives tried to persuade H to settle the dispute amicably. While they were talking, the mother of H's unfaithful wife came to the tipi, stood outside and said: "In the name of the Ten Medicines, do not hurt my daughter!" This was tantamount to calling upon the Ten Medicines to curse anyone in the tribe who harmed the girl. As soon as she cursed thus, one of her female relatives standing nearby shouted: "Let his curse be upon yourself." Since a curse may recoil upon the curser or any of his relatives, this woman insured her own immunity and that of the other kindred by limiting it to the curser herself. As soon as she hurled the Ten Medicine curse, the meeting broke up. "There was no point in discussing the matter further. The curse is even stronger than pipe smoking."

The unfaithful wife was never touched. H did not take her back, and C married her soon after. The relatives of H returned the horses they had taken with the exception of Black Bear (presumably a relative of H), who kept a horse. The father of C went to Black Bear's camp and brought the horse back without BB's consent. Expecting trouble, C's father staked the horse near his tipi for protection. BB came for the horse carrying a gun. People separated them and C's father kept the horse.

Analysis: An automatic supernatural sanction followed on Bundle desecration. The invoking of the curse of the Ten Medicines was dangerous to both kin groups, and this might explain why it so rarely happened. The supernatural protection henceforth on W's head may explain why she was not taken back: it would have been impossible for H to beat her even lightly, and this was legitimate even among Keepers. The epilogue shows that the agreement reached between the kin of C and H was considered binding, so people prevented one of H's kin from depriving C's father of his horse. Actually we have an interesting "frame-up" because of the close friendship between C's and H's family which permitted H to carry out suitable retribution, and yet not do any damage to the really valuable stock. H seems to be in on it himself. To end the actual shooting a minimum of pressure was necessary: a Keeper's mother just took the gun. No actual pipe was necessary, probably because H felt he had gone far enough in killing three horses. This "frame-up" gives a hint as to the husband's attitudes in other cases where death-vengeance was vowed. Since H usually vowed publicly, he might really count on a Ten Medicine Keeper's arriving in time to save him from actually killing a tribesman. It is likely that the action of a husband in marching over and shooting horses in a C's herd was to publicise his angry state of mind so that C's relatives might get under way and get a Ten Medicine Keeper on the spot before H actually faced C. If a husband were to face the co-respondent, having vowed to kill him, he would have to carry out his threat or else be called a coward. However, almost all men were genuinely afraid of taido, to say nothing of being basically reluctant to kill a tribesman. The legal institution of the peace pipe permitted a husband to go through the necessary display of wrath to save his honor, yet arrived in the nick of time so that he did not actually kill.

Case 26

M—Seinaadei, a captive.

D—daughter of Seinaadei, affianced to

(H)—Zeibadl, a topadok'i.

C—Zeibat'ei, a Ten Medicine Keeper.

M, a captive woman, had a daughter who was promised to (H) after she had matured. In the meantime, C stole her and carried her off to his tipi, the one in which his Bundle was kept. The next morning M came up to the tipi and remonstrated with the man for stealing her daughter. She almost cried. (H) was "so valuable a son-in-law and now he was lost to her." The mother of C warned M to be careful because she was in hearing distance of the Bundle and C was lying under the bag. Above all, she was not to enter the tipi. Despite the warning M burst through the door of the tipi, dragged her daughter out and brought her home. She was given to (H) but later D went back to C.

"The captive woman did not recognize the power of the Ten Medicines. She was neither eligible to receive the blessings nor to be a recipient of the curses of the Bundle."

Analysis: Some captives did recognize the power of the Ten Medicines, e.g. Mōkin. People would then look for supernatural consequences of desecration. "Recognition" was the basis for the sanctuary which the Ten Medicine tipis afforded (Cf. 2). This case also shows that a topadok'i was more valuable in the family than a Bundle owner.

The final category of criminal behavior, irregular marriage, involved a purely social sanction.

Case 27

A man married his deceased wife's mother. Both his relatives and hers were horrified at this breach of mother-in-law avoidance. The couple left the tribe for several years. They finally returned, and one or two relatives forgave them, but most would not speak to them. They had a very hard time always.

Analysis: People apparently could not befriend anyone who so flagrantly flouted the deeply respected mother-in-law taboo. Presumably the reaction was on a tribal scale. Incestuous relations, had such cases been recorded, would be categorized here.

Summary of Crimes

In summarizing the findings of the preceding criminal cases, we may recapitulate first the categories of crime:

1. Disturbing the peace (1, 2, 3, 4, 5, 16). If the prosecution of a private grievance reached the point where barricades had to be erected around certain tipis (5, 20), or where the conviviality of the sundance was threatened (2), then the affair became a public concern. Should a woman, or anyone, have placed her personal emotions ahead of the public well being, particularly in relation to the war activities, she was subject to punishment—but over-severe discipline of her might be also out of line (4). Flagrant insubordination might even incur the death penalty (2, if the man had not capitulated).

2. Killing (4, 5, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20), which incurred a social as well as a supernatural sanction. That death occurred from an accident was no mitigating circumstance. Prosecution of a grievance within a family twice caused death (17, 18), but there could have been no retaliation because the family could not be split into factions. Consequently a peace pipe was impossible. If a woman were killed, her kin did not take action unless all possible suspicion that she had been adulterous were removed.

3. Slander (10, 11, 12). Gratuitous insult was resented by everyone, and usually started a fight, but slander might undermine people's confidence in their leader, to whom they have been attracted by his reputation. With his social and political position at stake (which would not be the case for those of low status), a topadok'i wiped out with death the smirch. This violence was justified in people's eyes because "his honor was so great".

4. Treason (13), where the guilty woman's own brother inflicted the death penalty, presumably not only in behalf of the tribe but also to clear the family's honor.

5. Sorcery (20, 21), a crime in itself. In 10 and 20 we find the two examples of retaliatory killing.

6. Reopening a quarrel in violation of an oath on the pipe (22, 23), which involved a supernatural sanction much feared, particularly by the kin of the aggressor. Inasmuch as tribal peace mechanisms were flouted, it also might call forth immediate action by political leaders in defense of the aggrieved. Swearing falsely

on the pipe, of course, involved the same supernatural punishment, and it was averred that all lying suffered the same penalty. Nevertheless, a case of cheating in a foot race (24) was apparently not considered in the category of lying.

7. Desecration of holy paraphernalia (25, 26), which brought an inexorable supernatural reaction in the form of ill luck to those who "recognized" their power. This might serve as a loophole for rationalization at least for non-fullbloods. It is noteworthy that the ordinary taboo on striking a pipe-keeper was obviously suspended when he himself was guilty of criminal actions (2, 3, 14, 16, 17, 20). Striking was probably justified by his failure to observe proper behavior. Supernatural trouble might be avoided by addressing aloud the Medicine Bundle, "Grandmother, I am going to strike you", though this is recorded only once (3). It was legitimate for a Keeper to prosecute a grievance (2, 16, 25).

8. Marriages within tabooed relations (27), and probably incest, suffered an extremely strong social penalty.

9. Of doubtful inclusion as a crime is misbehavior on the part of a leader (1). This case was strictly an intra-topadoga affair, unless one construes the actions of any topadok'i as a concern to all. In a later case (55) a warrior assumed the role of public prosecutor to punish a war leader who behaved improperly.

This, then, is the list of the crimes. It should be kept in mind that the original grievance in several of the cases presented above was not the criminal action. When the prosecution of these private quarrels got out of hand because lives and order were endangered, too many people were involved, etc., then the "tribe" prosecuted. Some of the factors that prevented any crimes being committed at all were fear of taido, fear of kin ostracism, and most important of all, kin and popular pressure for peace at all times.

Prosecution of these crimes took place on two levels, the supernatural and the secular. When the former was the agent, one was described as "being followed by taido". This was incurred in murder, desecration, and pipe violation cases. It was so strong in actual practice that it was sometimes felt not necessary even to take secular revenge (20). In the concept of taido lies the proof that certain killings were disciplinary measures, the actual killer merely being the agent of society, for in certain episodes there was no taido in consequence (10, 13, and 2 if killing had occurred).

The "swearing in" of a society when it sang a song "vowing to do its duty" may have acted as a preventative for ill luck in the same way that the "Grandmother, I am going to strike you" did. The concomitant secular aspects of taido are not very well documented, except for the two interesting cases (5, 20) where a "preventative" or "cure" was found for taido. The fact that one of these at least (5), and probably both, concerned men of very high status suggests that if the well born can "buy off" taido, it simply meant they suffered no social disabilities whatsoever.

On the secular side, prosecution for the tribe might be quite formal, as at the sundance, or relatively uninstitutionalized. The leaders of the societies (2), or a whole society (3) authorized either by the Taime-keeper or a Ten Medicine pipe owner might act as sheriff. A group of topadok'i might convene to act as go-betweens to bring about peace (5), or an individual might assume that responsibility (4, 10, 13, 22; later 47, 55). There might also be mass action by the women ganging up (6) and by the kin ostracising an aggressor from their group (22). An interesting point is illustrated by Case 1: the people took action in this quarrel by moving away. Thus Kiowa society might withdraw from an aggressor, in contrast to our western method of putting the criminal out of the social group, i.e. in jail or exile. Moreover, whatever form of punishment might be inflicted on a criminal, it never took the form of depriving him and his family of the means of independent subsistence.

The actual mechanisms for peace are further illustrated in subsequent case histories. Of these the pipe, which might be offered not more than four times, was the most important (2, 4, 5, 11, 15, 16, et al.) although a simple promise was equally valid (17). Invoking the curse of the Ten Medicines was rare, for it was very dangerous (26). Compensation in the form of horses, and sometimes other property, usually soothed injured feelings (2, 4, 5, 7, 8, 11, 15, 16, 19, 21, 25).

A number of interesting legal points come out in the cases, many of which will be further documented subsequently. A brother, or a father might smoke a peace pipe in behalf of a relative (2, 16), and they were subject to attack if he were absent (5, cf. later 68). A man might kill his brother for adultery with his wife, but there could be no retaliation for this death, because a family could not be

split (18). A woman's life was not apparently valued as highly as a man's for if there were a suspicion of adultery upon her, her death at the hands of a husband would not be prosecuted (16). But if she were blameless, there would be prosecution (14). Moreover, she might have to bear the brunt of punishment at the hands of her husband, if her lover ran away (10). In general, though, in adultery and absconding cases, women were not punished, unless caught in flagrante delicto. The reason is given in 11: women were considered to lack competent judgment. Occasionally in disputes evidence was gathered relative to the question and action taken according to the findings (23). Agreements were recognized as valid (17) and even in a "frame-up" were defended by public action (25).

Relative status of the participants is also indicated as playing an important role in crimes, though in general a smaller one than appears later in private grievances. In cases like 2, no matter how high the rank of a miscreant, by his actions he negated any claim to respectful treatment or even immunity. But in 19, a family of captives did not dare take action against the distinguished Big Bow family. In 5 and 23, a small, though honorable, group could not hope to avenge itself against a very large number of powerful warriors and their kin. Where the plaintiff (or his kin) was high, a defendant of low status had no chance (7), nor could his kinfolk avenge his death (10). But when status was assumed to be equal, note the different ending attached to what may be the same story (10, 11).

IV. QUARRELS BETWEEN H AND W KIN

From criminal cases we now turn to a consideration of private grievances, and our first group concerns conflicts between a husband (H) and his wife's kin (W kin). This category of dispute situations arose largely from overlapping jurisdiction over a woman. Although a woman usually lived with her husband and his kin away from her own family, in economic and social partnership in the larger social unit described above, nevertheless she was always under the protection of her own immediate family, i.e. brother, father, uncle, etc. For this reason, men did not like to marry their sisters and daughters into distant topadogas, for it meant they would not be able to watch out for them. The brother-sister bond was actually the warmest, strongest, yet most respectful, in the culture. It was said, "A woman can always get another husband, but she has only one brother". She enjoyed the economic and social security of a life-long, welcome place in her brother's tipi, should she be widowed, want to divorce her husband, or be taken away from him because of his cruel behavior. Of course, a woman was expected to merit her family's respect by faithful performance of her duties and obligations towards her husband. If she failed, her own kin might bring pressure to bear for her to mend her ways. Flagrant misbehaviour might even incur the death penalty (13). There are cases, however, when even if she were guilty of unseemly behavior, they defended her (36, 37, 38). However, a husband also had disciplinary prerogatives over his wife. He exercised these usually by beating her when necessary, a method never employed by kinsmen. A certain amount of beating by H was permitted as legitimate by W's kin, but if W were beaten too hard, too much or without good reason, W's kin stepped in and took her away from H. If W were wantonly killed by H, her kin sought to avenge her death (14). The coercive threat of taking W away acted as a real restraint to a miscreant H, for it would always cost him and his kin considerable property to get her back, if at all. An even

more important factor inhibiting wife-beating was that H also lost absolute status if it were known he behaved thus.

Any difficulty between two groups related as affinals was peculiarly heart-breaking because, next to the brother-sister bond, the relation between a man and his wife's brother (WB) was the warmest and most respectful. The two men vied in giving gifts and in supporting and honoring each other. "It was a great disgrace for brothers-in-law to fight". This relationship tended to obviate most troubles between H and WB. Nevertheless, consonant with the primacy of the brother-sister bond, there existed between these two men a fixed and unalterable one-way relation called the "downhill" relationship. H was downhill from WB in that H might never refuse a request from WB. A man was also downhill among others to his father-in-law and his parallel fathers-in-law. It was a great disgrace for H to "run WB uphill", i.e. ask him a favor. If the H ran WB uphill, the WB shamed H by conforming to the request. But if the downhill relation were violated, and a request by WB was refused, there might be real trouble. Because of the added emotional ties wrenched when trouble broke out between two affinal groups, it seems that pipe-owners and people in general were particularly on the alert to restore peace. In proportion to the number of cases, the pipe was more often used to stop quarrels between affinal relations (excluding levirate adjustments) than in any other category (4 cases out of 12). One of the most serious cases has already been given (14).

Case 28

H—Tōkoide, a Ten Medicine Keeper; an irascible old man (cf. Case 16, 17, 85).

H had three wives, and was "mean" to all of them. He was so mean, his wives' families had taken all his children away from him to raise. One wife got the nickname Canyon Owl because she would go off for days at a time and hide in the canyon in order to escape the blows of her H. H resented the name very much because it was an "interference with his affairs." H was consumed with jealousy. Finally some of the other Ten Medicine Keepers came to him, including a cousin or brother of his who was also a Keeper, and told him to behave himself or the families of the wives would disregard the fact that he was a Keeper, and would kill him. He said he had good reason for being jealous but they answered that

everyone in the tribe knew that the wives were faithful. Finally all three wives ran away. H found one and cut her lip and nose off, though there was no reason to doubt her fidelity. Keepers managed to reconcile the families without real trouble.

Analysis: Depriving a man of his own children would be a very strong coercive measure among the Kiowa, but H's jealous nature did not reform. H's words show clearly that although an H had a right to discipline his wife, it was an affair which involved at most only the W kin, not the general public. The threat that a wife's kin might kill a savage husband is explicit here, though no cases bear it out. Tōkoide was an important warrior as well as a keeper, and may have felt himself above the law; nevertheless, his own kin felt the necessity of warning him lest they all be involved in a quarrel with the wives' families.

Case 29

H—Tenehadl, later called Pwate; about 35 years old (Cf. 61).

W—Half-sister to Kintadl, the informant; adopted by FB.

F—Pwkongyai, father of W (not the man by the same name in Case 2).

FB—Yiehonto, brother of Pwkongyai.

W was very beautiful and much admired, so H was seized with terrible jealousy quite unfounded. He beat her continually, so much so that her face never cleared up. Several times she came rushing home through the woods to her family, but H always came for her. Now FB had formally adopted W saying, "I am going to take her as a daughter and do things for her". FB scolded H; another FB, Pwotwdl, got after H also. W's brothers wanted to interfere, but F told them not to, because "the only reason that H was beating W was because he loved her so much, and that H was hurting himself enough by acting thus". Finally FB got angry, brought W home and refused to let her go. H kept trying to find her for several months in order to get her back. A year later H went to see FB to beg for her. H offered two horses and his father offered one. This was agreeable, so W was returned, and H behaved himself ever after. One of the horses received by FB was given to another own brother of his, but none went to F. Later on they gave him another sister as a wife. Informant says a Ten Medicine pipe could have been called in to settle this wife beating case.

Analysis: The informant was F's daughter and therefore may be somewhat prejudiced when she said F was a man of good status and

large kindred. One wonders why F, thinking only of H, would not protect his daughter. The fact that W had been adopted by FB, apparently because he could do more for her than her own father, suggests that F was not as eminent as others in his family. F seems to have wanted to keep H as a son-in-law above everything. On the other hand, F's words may reveal the effectiveness of antipathy as a sanction against a cruel wife-beater. We have already learned that cruelty to women prohibited a man from enjoying ondestatus (16) and lowered him automatically. F may have felt that H's own actions would do him more harm than any punishment the W kin might take. The request for the return of the W was successful because H was supported by his kin. The role of the kinsmen was of the greatest importance in these affinal disputes. Without them it was practically impossible to get a wife back. Compensation was almost always necessary.

Case 30

H—Dwtoba, poor, no parents or grandparents.

Fil—His father-in-law, Kiahikohi, alias Little Bow, son of Big Bow; a rich warrior with a large herd of horses (Cf 19, 51).

Dwtoba's father died when he was a child and his mother deserted him. From then on he had lived a miserable hand-to-mouth existence, sleeping here and there, and begging food where he could. As a youth, once he had learned to hunt, he provided for himself pretty well. One day Kiahikohi asked Dwtoba to come to his camp. "You are a good boy, and I am going to offer you my daughter as a wife if you will come to live with me and herd my horses". Dwtoba, now H, accepted, and his new father-in-law gave him several good mares with which to build up a small herd for himself. H worked hard for WF and all went well. Now it happened that his wife was very pretty, and a number of wealthy young men were flirting with her. This made H jealous. His jealousy was increased by the fact that he was poor and without status while his wife and the young men were of good family. So he used to beat her often and hard. Finally WF told him to stop. H paid no attention. WF told him to leave, that he could not live with his daughter any more. H left, taking his horses with him. H had no place to go, no relatives to help him. Soon he thought better of his conduct and returned to his WF offering him horses if he would take him back. WF said he had plenty of horses and did not want H's horses. He had befriended H, a poor boy, and treated him well. H had shown his gratitude by beating his daughter. No, he

had given him one chance and would not give him another. H could do nothing about it.

Analysis: The case illustrates how a man, by giving his daughter in marriage, acquired an energetic worker in the family. Residence in this case being matrilocal, H was sent away, (W could not be taken away). The main point is that H had no relatives to help him get W back by interceding for him. Horse composition alone was not enough.

Case 31

H—Tonok'wt, a notorious sorcerer (Cf. 8, 74).

W—Niece of Old Man Horse.

OMH—Old Man Horse (informant), a half-breed with no war record.

H made advances toward a beautiful woman. She refused him and he bewitched her so that she died. Later H married W. He abused and beat her. OMH told his niece that if H beat her again he would fix him. One day OMH found W in bed all beaten up and decided that that night he would shoot H. He got his gun and waited his time. His brother, however, dissuaded him, "to save him from becoming a criminal". OMH knew also that a bullet aimed at H would turn back and kill the shooter. OMH remained angry, and when he and H were together in camp once some words passed. Later a speck got into OMH's eye and it began to swell. His other eye also swelled. (The rest of the tale concerns three terrible witchings loosed on OMH's head by H and the cures by a vision quest and by peyote.)

Analysis: The first incident records a murder by sorcery. W was later defended by her uncle. It is unlikely that OMH would have really killed H, both because H had such a terrifying power and because husbands were rarely actually killed in these wife-beating episodes (Cf. 28). OMH was dissuaded because his B feared OMH would suffer taido and apparently social sanctions too. OMH acquiesced, mindful also of H's powerful sorcery.

Case 32

H—Ōtsoseima (Roan Mare).

W—Eimate.

WB—Edwte, W's brother. Good family (Cf. 3, 78).

HB—Kuitokongia (Cf. 78, 79); topadok'i; Ten Medicine Keeper; brother of H.

H got angry at W and beat her. She was a big woman and fought him back very successfully. WB ran up and told H to stop beating his sister. H paid no attention. WB told H he was going to kill him. H ran and WB shot him in the leg, then ran up and hit him on the head with the stock of his gun. The gun glanced off his head and broke his shoulder. H grabbed WB and they fought some more. W ran up and helped her brother. HB came up and offered a pipe to WB who smoked. H refused to smoke. HB told him he had better accept the pipe if he knew what was good for him and forced the pipe into his mouth. H smoked. H showed HB his wound. HB said, "Don't show your wound to me. It is your fault for beating your wife." Later WB gave H a horse, saying, "It was your own fault, but I am sorry." After that they were friends again. "It is rare for brothers-in-law to come to actual blows. When they do it is a great disgrace."

Analysis: WB stepped in to protect W. Each of the combatants had to smoke, probably because each felt himself aggrieved, and might reopen the quarrel. By offering the pipe to WB first, the Keeper (HB) might have hinted that WB was the true plaintiff. This is borne out by the fact that HB disciplined his brother H, upbraiding him for hesitating to smoke, and also for beating his wife. This would imply that "the law" was against the wife beater. It was WB who, though being in the favored position in the "downhill" relationship, i.e. the one who should have best received a voluntary gift from H, nevertheless went out of his way to patch up the quarrel by making a gift to his brother-in-law. This generous act could not fail to restore peace.

Case 33

H—Kyuitaide (White Shield); onde.

W—Etwhot.

WB—Kweteboi—W's brother; onde; kietaik'i; later topadok'i.

WB told W to tell H, "I am going to take H's best horse on a war party." She told H and he refused, saying he would not let WB take this horse. When WB, a hot-headed fellow, heard this he was very angry. WB got his arrows, jumped on his horse and rode to H's camp to see about it. He met W and said, "Sister, I understand that H has turned me down. You come with me. You shall not be his wife any more." She began to cry. She said she loved H and could not leave him. WB tried out his bow. H was sitting in front of his tipi near by with a pistol concealed under his blanket. He pulled the pistol out and said, "Do you intend to

shoot my wife (sic)?" WB said, "Yes". So H shot WB's horse with the pistol. As the horse fell WB got caught and dropped his arrows. H rushed up and grabbed him by the hair. They had a free-for-all fight. W ran up and took the pistol away from H so that he could not shoot WB. A Keeper saw the fight and came up with his pipe. He was followed by a female Keeper. When WB and H saw the Keepers, they broke apart. They were still very angry but did not say anything to each other in the presence of the Keepers. They smoked and the fight was over. H's brother came up on a fine horse. He said to WB, "Brother-in-law, I hear that you wanted to take your sister away because my brother refused you a horse. Take it and forget all this trouble." WB accepted the horse and the affair was ended.

Analysis: Both H and C were of very good status. They fought (1) because of H's violation of the rights of WB in the downhill-relation; (2) because of WB's hot-headedness, a personality factor. The gift of a horse by HB, (a classificatory brother-in-law of WB) seems to indicate that WB was acting within his rights in taking W away because the horse was refused him. The horse was then composition for the grievance, and was given over by H's kinsmen to restore peace. W was caught between her love for H and her obligation to her brother. Both men smoked, as in Case 32.

Case 34

WF—Ayate, father-in-law; prominent man.

H—Ekuyot, his son-in-law.

WF asked H to go out and get him some buffalo meat. H refused to go. "He was supposed to go whether he wanted to or not." He did not tell WF he would not go but simply made no move to do so. WF said to his daughter, "Why doesn't H go after that meat?" "I don't know. I guess he is mad and doesn't want to go. Perhaps he is just lazy," she replied. H went home to his mother in a nearby camp without getting the meat. He told his mother to go over and tell WF that he was not going to get the meat. She did so. WF said, "All right. Go into the tipi and get your son's belongings and take them away. He is not going to live with my daughter any more." The mother did not take them but went home and informed H's sister, who went and got his belongings. This meant that the marriage was broken. After a while H got lonesome for his wife. He gave two horses to his sisters and asked them to give the horses to WF and plead with him to give back W. If WF agreed, they were to bring W back with them. They went to WF, asked him to take

pity on H, gave him the horses, and begged him to give back W. WF accepted and told W to go with them.

"A WF always takes W away when H refuses a request, even if it is the first time he has refused. But such refusals are rare. In most cases where there is refusal H thinks he has a strong hold on W and can get away with a refusal without losing her."

Analysis: Violating the downhill relationship between H and WF besides such a flagrantly non-cooperative attitude meant loss of a wife, subject to the interesting condition mentioned by the informant at the end. Again we see the role of H's kin in acting as intermediaries, bringing horses in order to effect the return of W. No pipe was necessary, for WF and H did not face each other in open conflict.

Case 35

H—White Fox, a Ten Medicine Keeper.

W₁, W₂—Daughters of Aiseoide.

WF—Aiseoide, Ten Medicine Keeper, father-in-law to H.

H wanted to take W₁'s sister for W₂, but W₁ was opposed to it. One day when H went over to visit the younger sister W₁ followed with a club and beat the sister. H was going to beat his W₁ for this, but WF, hearing of it, interfered. They were about to fight. George Hunt, (the informant and a half breed), separated them saying that "the most powerful law the Ten Medicine recognizes is that the Keepers must not fight among themselves." He never heard of two Keepers "actually coming to blows."

Analysis: The taboo on aggression associated with the Medicine Bundle owners did not prevent a Keeper from beating his wife, but was invoked to prevent them from fighting among themselves. Since this taboo was uppermost in mind, the informant did not mention the very important fact that a father-in-law and son-in-law were fighting. In view of the respectful behavior enjoined on these two relations, fighting was a great disgrace.

Kiowa said that if a woman misbehaved by absconding or having an affair, she lost the support of her family as protection against the righteous wrath of her husband (Cf. 16: "When W was killed by her husband her kin were angry, but when they heard she had been unfaithful, they cooled off.")). Nevertheless, there are several

cases of interference to protect the wife even though she had done wrong. Personal ties of affection or esteem between the wife and her family might have motivated the interference, or it might simply have been that the husband had gone too far in beating her.

Case 36

H—Big Bow, the great warrior (Cf. 2, 48, 51, 53, 54, 58, 61, 65, 66, 67, 77).

W—his wife.

C—Gomgicte.

WB—W's brother.

HSi—Big Bow's sister.

H was on a war party. While he was away HSi caught W in bed with C. Upon H's return HSi told him about it. He cut W's nose off. WB was angry about that and had a barehand fight with H in the middle of the camp. They bit, pulled out hair and kicked. Finally they got death grips on each other and would not let go. No one could separate them. Two Medicine Keepers were called. They forced their pipes into the mouths of the two men simultaneously and the fight was over.

Analysis: Cutting off a wife's nose for infidelity was legitimate but mean. It was not at all like Big Bow to act thus for although his wives were involved in unnumerable adventures, this was the only time he ever cut a nose. This time she was caught in the act, however. The fact that HSi told H about the infidelity must have shamed H because it gave publicity to the affair, and probably was another reason for H's savageness towards W. One would like to know whether W was the famous tribal beauty Onkima, daughter of Kwtompte, to whom H was married (Cf. 65, 66). Her family would have been very proud of her beauty and would naturally have been solicitous. No information obtained told of the disposition of W.

Case 37

H—Podeia, brother of the Ten Medicine Keeper Kopgota.

W—Akwbai, niece of the Taimé-keeper; oldest of two wives, the other being the young daughter of the Taimé-keeper (Cf. 14).

C—young Sankydoty, alias Tsogiadw.

WF—Oate, real father, or foster uncle of W whom she called "father"; a distinguished captive.

T.K.—Taimé-keeper.

Time: Just before the sundance, T.K. in control.

H had taken a younger wife of whom W was terribly jealous, especially when H went to live with the new one. Consequently W had an affair with C. H caught them in bed. There was a fight. C got away, but H beat W unmercifully. WF ran up and asked for mercy but H paid no attention. At night W escaped. Next morning H and his brothers looked for C. They cut up two of C's relatives' tipis. They caught W and beat her again. One of H's relatives, someone who called W "daughter-in-law", struck her in the presence of WF. WF was so furious at this treatment of his daughter that he went to his brother-in-law, who loaned him a gun. Then as the people went in procession towards the sundance camp, WF began shooting. (This is the more reprehensible because the harmony rule was in effect.) While WF was waiting to get a good shot at one of H's brothers, Kopgota, H's B, sneaked up behind WF and hit him over the head with the butt of his gun. WF fell down as if dead. When he came to WF started shooting wildly. He shot two of the attackers' horses and drove them out of the camp. His shots endangered all the people. Seko, the informant, was a little fellow at the time, and was tied to his saddle; nevertheless he remembers someone saying to him, "Your father is a bad man, he is shooting into the crowd." H and his sister wanted to fight back at WF, but they were restrained by people saying, "It is the sundance when all should be peaceful." WF, H, and the others agreed to stop when T.K. asked them in the name of the Taimé and out of respect for him to desist. WF agreed on one condition, that his daughter should not return to H. But H wanted his wife back. He took his two best horses, loaded them with gifts and asked two Medicine Keepers to take them to WF and get him to smoke a pipe, and give back his wife. He promised to treat her well, make her happy and never to strike her. WF told the Medicine Keepers to bring H so he could hear his words. H arrived and WF said, "Sit down, son-in-law. I am going to smoke this pipe on one condition. That is that you live with my daughter in my home as long as I live, furnish me with meat, herd my horses, and be my servant." H agreed and lived with him as long as he lived.

Analysis: W's kin rushed in to protect her even though she was guilty. There were certain extenuating circumstances concerning her infidelity because H had left her tipi to live with a younger wife. A man ordinarily lived with his oldest wife, or at least visited his wives in turn. It was a common situation for the oldest

wife, if she felt herself slighted, to deliberately run away with someone to get even with her husband, or at least have an affair. The peace pipe was in no way in abeyance during the sundance. Yet Kopgota did not offer his pipe nor his services for peace. Although a Medicine Keeper was not supposed to strike people, he got into the fray himself in behalf of his brother. His kinship obligations were stronger than his priestly injunctions. The T.K. stopped the fight as topadok'i of the tribe, as T.K., and as H's father-in-law. The people's words show the extent of the popular feeling to restrain shooters, especially at the sun dance.

Usually a gift of horses via some intermediary without the pipe was sufficient to get a W back after she had been taken home, but there had been considerable shooting. At the time of smoking any stipulation might be made, and it had to be accepted.

Case 38

H—Guhale.

W—his wife.

WB—his wife's brother.

W ran off with a man to another topadoga. H went to that band looking for her. He stopped in front of the tipi she was living in. After some discussion she came out and said she would return with him. She went ahead on foot. When they had gone a little way her husband started lashing her in the face with his lariat. The woman did not protest but went on, although the blood was running down her face. WB saw what was happening and rode out to stop it. WB rode in between H and his wife so that he couldn't whip her. H was very angry at this interference. WB told him if he didn't stop he would knock him off his horse. WB took his sister back to his tipi. By that time some more of the family were there and the husband could not do anything. They told him that they were going to keep W. So H went home.

Analysis: H went too far in lashing W until she bled, consequently WB stepped in to protect her. When H got angry at this legitimate protection WB took W away. A show of strength by W's kin completely silenced H's claims, even though W was guilty. In the light of all other absconding cases it seems that H was not acting honorably in attacking W. It was C he should have gone after, and maybe for this reason too WB intervened.

Summary

A kinsman of W, particularly her brother, could challenge a husband who went too far in mistreating or chastising W. They might take the children away, and even threaten death, but usually they just stepped in and took W away. Since acts of brutality by H might involve his whole group, H's kin themselves often disciplined a wife-beater. They knew that to get W back from her family, horses would have to be paid, and if she were killed, they might expect shooting.

If W had been taken away, there was a regular procedure to get her back. H had to employ some intermediary, brother, sister, or even a Medicine Keeper to plead his cause, and they brought horses as a peace offering. Property alone was not enough to get W back (30); a man had to have kinsmen to be successful. We have already observed that the size of the kindred was a large part of a man's effective status. Unless other factors are involved, it may turn out that husbands of high status, backed by kindred, could usually get their wives back; poor husbands of low status could not (30). It is possible that a great warrior might have treated his wife as he would and her brother, if he were not the husband's equal, could say nothing. The only case involving a very high ranking husband is No. 36, and unfortunately we know nothing of WB's rank and reputation.

Serious fights occasionally broke out between a man and his W's kin, because the kin intervened in what H considered a justified disciplinary situation (e.g. 37, 38), i.e. when W had really misbehaved. It is likely that they resented the form or degree of punishment rather than the fact of discipline itself. W's kin had constant advantage at such times for they could always take W home with them. Against this, H could do nothing. Another source of conflict was when H ignored the obligations of the downhill relationship towards his brother-in-law or father-in-law. On occasion two pipes had to be brought simultaneously to pacify both parties. Since the pipe was always offered to the aggrieved because he was the one about to set out to take action in revenge, this two-pipe adjustment may specifically have obviated the implication that one of the parties was defendant, and guilty, the other plaintiff, and aggrieved. This would smooth the path of peace between the affinal groups who were in this culture on a strictly equal footing.

V. LEVIRATE CASES INVOLVING W AND H KIN

In accordance with the levirate custom, the deceased husband's brother (HB) had a regular option on the widow if he chose to take her. If he failed to press his claims or if W refused to marry HB, she was supported by her brothers or her sons as long as she remained a widow. HB's claims on W continued, however. Consequently, when she remarried, even if HB had actually refused to marry her, there was an inevitable adjustment to be made between her and the deceased husband's kindred, usually prosecuted by HB. If she had refused to marry HB, an action HB could not fail to resent, it is likely that whatever compensation was taken was in part to soothe HB's feelings.

Case 39

H—deceased.

W—widow (informant's sister).

HB—H's brother, claiming W by reason of levirate.

W was left some mules and other stock by H. HB wanted to marry her but she refused; so he came and took the stock, but left her the mules. Later she married another man. Then HB came and tried to take the mules. But her cousin objected and killed the mules rather than have them taken.

Analysis: A widow was willed stock outright. It was this property that was liable in case HB exacted any compensation. HB probably took the stock as "heartbalm" when he was refused. At her remarriage he sought to reopen the case, to exact more compensation. But her kin objected, feeling that the previous compensation had been sufficient. They could not have done so if she had not owned the stock herself. Protesting too great demands or stopping a dispute over a horse by killing the animal involved was a usual procedure, and it always cleared the atmosphere.

Case 40

W—

OMH—Old Man Horse (Cf. 31, 76).

As a girl, W was betrothed to a young man who was killed on a raid. Later OMH eloped with her. His family was then obliged to appease

the relatives of the dead man. Accordingly they staked out a horse behind their tipi for the relatives of W's former betrothed, who came and claimed the horse. Later a cousin of OMH decided to take the horse and replace it with another. A relative of the other family overheard him say that he was going to retrieve the horse, without hearing that he was going to replace it. The eavesdropper rushed back to his people and reported what he had heard. They thereupon shot the horse.

Analysis: The relations between affinals were established with betrothal as if the young couple were married. Consequently, the mechanism operative here was the same as for a widow who ignored the levirate. This is the second time (Cf. 39) a protest was made because of retaliatory actions after just compensation was made to the aggrieved persons. This time the deceased's kindred shot the horse, thereby registering their protest.

Case 41

(H)—deceased husband, Setangya, the greatest warrior and topadok'i of the tribe; died in 1871 (Cf. 3, 20, 64).

W—Teidlede, one of two widows.

HB—brother of (H).

M—Maientende, a great topadok'i, (Cf. 20, 64, 76).

When (H) died, W was spoken for by HB, but she married M, and moved over to his camp. One night, HB rode over alone the considerable distance that separated the two camps, went up into their tipi where both were, lashed the two with a quirt, then went home satisfied. Neither resisted in any way, for they had been rather expecting it.

Analysis: During (H)'s lifetime, W had an affair with M (64), so W just married her old lover. Having refused HB and then remarried, W might certainly expect something. The case shows that an infringed levirate did not necessarily involve property compensation.

Case 42

(H)—Taisigoioi, deceased.

W—widow.

HB—(H)'s brother.

Topoi.

At (H)'s death, HB married W who had inherited all (H)'s property. Soon after, HB left W. Later W married Topoi. HB killed one of her mules and several of her horses.

Analysis: HB married W in the orthodox fashion but left her. W apparently owned the stock of (H) outright. When she remarried, he exacted compensation which was no less severe because he himself had left her.

Summary

HB's claim in levirate cases was considered a standing matter as long as W did not remarry. W was prosecuted personally when she married another when she had property in her own name. If she had none, it is likely that her new husband's stock would be liable, if not that of her own kinfolk. HB exacted compensation for the loss of his rights in the same way, to a certain extent, that a living H degraded an adulterer or shot his horses in retribution for this trespass. No really serious fights ever arose over a woman's remarriage to another man, presumably because people recognized the right of a woman to marry whom she wanted.

VI. ABSCONDING CASES AND STATUS AS A LEGAL PRINCIPLE

A glance at the table of conflict situations reveals that trespass upon a husband's exclusive sexual rights to his wife was by far the most frequent source of grievance. One may well inquire into the reasons for the preponderance. The fact is, a number of different goals were achieved by adultery or absconding. By abducting a wife, a situation might be deliberately created wherein the husband came out with considerable loss of prestige (55, 72), provided the co-respondent were of such eminence as to be able to carry it through. Thus, if a man's actions in a certain situation were greatly resented, yet there existed no way of bringing to bear on him the public's disapproval except by gossip, someone could assume the responsibility of "prosecuting for the tribe" by censuring him publicly in this fashion. Adultery could also be retaliation for a personal injustice suffered at the hands of the husband (10, 72). A woman could take the initiative to "teach her husband a lesson" (37), or for the sake of adventure (63). This step did not necessarily end in a divorce. Another very important aspect was that absconding with the wife of a man higher than oneself was a means of raising one's status. If the husband did not prosecute, presumably nothing was gained. But the action might also create a situation wherein the two men faced each other, and if the lover could outface the husband and demonstrate thereby publicly his signal courage in the face of death, his reputation was enormously enhanced (47). Finally, there were a number of adulterous affairs and abscondings for the obvious reason that someone was in love with a married woman and wanted her as his wife (31, 44, 69). It is important to note that there were therefore many cases where the woman was not taken for herself. She was at times merely a means, sometimes coerced, perhaps sometimes unsuspecting, to an end in which other issues were at stake.

At first glance, the procedure in the H-W-C cases, i.e. involving a husband (H), a wife (W), and a co-respondent (C), seems highly variable. Certain general tendencies do come out if we subdivide

the cases into groups defining more accurately the real situation. If H caught W in *flagrante delicto* (2, 16?, 36?, 37, 46, 47), action seems to have been considerably more violent than usual, especially for W, who in these cases usually was severely beaten. Suspected adultery (5, 13?, 16, 54, 72) was almost as bad, though not for W. There is slight evidence that when the couple ran away on a war party (47, 53, 60, 63, 75, 77) prosecution was less rigorous. It is probable that several other abscondings ought to be listed here, but are not because it was not specifically so stated that they went to war. The remaining H-W-C cases (approximately 25 abscondings and 10 adulteries), show what appears superficially to be extremely variable reaction on the part of the plaintiff, following almost his whim and mood. But the clue to proper analysis of many of these cases lies in determining the status, relative or absolute, of the two litigants. This factor has already been previously noted (5, 7, 10, 11, 16?, 19, 23) but here the cases clearly set forth the true role of this important phase.

A. H HIGHER IN STATUS THAN C

Case 43

H—Pagotogudl, ondegupa, whip-bearer in the Tsetanma society, therefore of considerable tribal reputation.

W—.

C—young White Bear, son of the famous White Bear who died in prison; below H in status; already married.

C ran off with W and brought her to his camp, which was headed by Tsadlwate. This ropadok'i, to whom C was not related, was not very prominent. One day H came riding over. He asked that C be brought to the tipi of the Taimé-keeper, who also lived there. W hid. C came over with a body guard, and the spectators were walking on glass fearing a terrible fight. H, to C: "You've been saying that you could get away with any wife of mine or of my brothers." Silence. H: "Where may *your* wife (meaning W) be?" C: "I do not know." H: "Speak up, if you are a man!" No answer.

The spectators realized that H was not going to kill C and were much relieved. Tsadlwate said, "Thank you, H, for coming to my camp with murder in your eye, and not doing it." H: "Well, I'll take C's brown horse." W stayed with C.

Analysis: The Taime-keeper's tipi, always sanctuary, was used on the aggrieved's initiative as a "court-room". It may have hinted that H would not use violence, barring unforeseen resistance by C. H insulted C, but since there was no continued threat of violence on either side, no pipe was necessary. If C had been trying to raise his status, he was utterly defeated in the showdown. H satisfied himself by publicly shaming the young man, and also may have gained prestige by acting severely and then magnanimously sparing C's life. H named the compensation he would accept, an action usually taken on the pipe.

Case 44

H—Pwtwdl, a Ten Medicine Keeper of prominent family and many kin; two wives, a topadok'i (Cf. 45, 48, 67).

W—.

C—Kuito, son of a captive, but with good foster relatives; informant (Cf. 57).

People were assembling for the sundance. C was in love with W. While H visited his other wife in her tipi, C went up to H's tipi. C stood at the doorway for a moment and hearing a man talking, ran back to his own tipi. H was whipping W and afterwards came to C's tipi with his cousin. When H entered C was lying down. H walked over and pulled him up by the hand. H asked him whether he had been playing around with W. C denied it. H then said that W had revealed his name. H picked up a stick and began to beat C. C ran out of his tipi and went to another half-breed's camp for protection. Next morning C's father sent three Ten Medicine Keepers, one of which was Kwonbohon, to H with a pipe and two horses for settlement. H accepted the pipe and horses. "Three Keepers were sent because three were stronger than one. H was a topadok'i". H kept W. Later W came to C's tipi expecting him to take her, but C was "too proud" and sent her back.

Analysis: H was far superior to C in status, nevertheless brought his cousin with him to intimidate C, as if H's kin had been mobilized for action. C's father had many strong foster-kinsmen. Nevertheless, he sent three Keepers instead of one. This probably reflects the status differentiation because the informant in the next breath added: "H was a topadok'i." Note that H, a Keeper, on whom mildness was supposedly enjoined, did not hesitate to beat his wife for suspected infidelity. C is the informant himself in this

case: one wonders whether his being "too proud" to take W again was not a rationalization or a boast. C had paid compensation for her and so had a right to her which W apparently expected him to claim.

Case 45

H—K'oteide, ondegupa, i.e. second rank.

W—Etohodla, daughter of Pwtadl, much older than C.

C—Podldonte, ondegupa.

H was older, was a recognized warrior and a very fine man. Informant remarked, "I don't see how the woman could have thrown over such a fine man." C was young, unmarried, yet had many horses. At the Ride-Around-Camp (where the whole tribe convened before its march to the sundance), while H was in his all-night society meeting, W went to the tipi of C. They ran off together. H was furious, and threatened death to both, saying that if he didn't kill them both within short order, they could live together. C's family was afraid of him, so they came to Pwtadl, a Keeper. They gave him a pipe, which they wanted H to smoke, "because they wanted to settle the thing rightly." So the Medicine Keeper went to H, asked him to smoke and do nothing, and to take his wife back. H agreed, and H and W were together again by the time they got to the sundance a week later. The Keeper was given a horse from C's family. W's brother gave a horse to H, his brother-in-law. C gave a horse to H.

Analysis. This complete settlement which seems extraordinarily quick may be attributable to the general spirit of affability and tolerance that pervaded the sundance. H even set himself a time-limit for prosecuting. We see that the pipe was considered the right way to settle a quarrel, with compensation to H from both C and W's family. It was not often that the Keeper received a gift at the time of settlement, but the frequently mentioned "spontaneous" gifts of horses to the Medicines may really have been aspects of some of these quarrels. A Keeper rarely requested that W be taken back. This may be part of the special pressure for tolerance exerted at the sundance.

Case 46

H—Lone Wolf; Tsetanma society; onde (Cf. 1, 23, 54, 68).

W—.

C—Tepdea; Adltoyui.

H returned from his society meeting and caught C in bed with W. They had a fight and W escaped. C followed her and they eloped together. C sent back a horse loaded with fine clothing with the message that he was sorry for what he had done. His society got together a lot of presents and gave them to H, and asked for peace. There was no trouble. "A society would not help one of its members get revenge for adultery."

¹ *Analysis:* Information from other sources reveals that H was higher than C. A society was usually solicitous about a member in trouble. This, of course, could only happen at the sundance when solidarity and general affability was at its height. A society would not prosecute for a member, but it would make every effort to speed the settlement by placating the angry plaintiff with gifts. A remarkable feature of this settlement was the initiative for peace and the apology of the aggressor.

Case 47

H—Setoyoide, father of informant Heapabear; son of the Taime-keeper; very great warrior; middle-aged; big topadok'i; three wives.

W—Tedlpw, Heapabear's own mother; middle-aged; the oldest wife with two children.

C—G'utotaide, also middle-aged, a warrior.

S—Son, Heapabear, aged six at time of incident, the main informant. Time—1867.

C was an orphan raised by his grandmother. From kown he advanced by his own war deeds to become a great warrior. He was treated as a member of the first (onde) rank, though still considered in the second. At this time he was a war leader. He had accumulated some property and dressed well. While camping in the north he decided to steal W, the wife of an important chief.

C went to H's place and arranged a rendezvous with W. She said she couldn't get away, but she told him to come over and wait till he saw H go. That night C went in, and they both went to bed. Both fell asleep. Suddenly H returned. C escaped, but H slashed W's nose. W was mad. She went to C right away, and they went south on a war party, leaving her children behind. The camp caller announced that they had run away. H started looking for them. He was so ashamed that he refused the pipe and compensation, and vowed to kill them if it took three years. "He was a great warrior and a chief, and that made the shame worse." H and his brothers shot thirty of C's horses. A searching party returned with no success.

Two years later, C and W returned to see relatives. H met C by chance. C was on a mule and knew he couldn't get away, so he dismounted at a creek, drank and sat down with perfect unconcern. H rode up and said that he was going to kill him. C said, "All right". H shot C without getting off his horse. C sat there with blood running from his mouth and said, "You have killed me". H rode over to C's camp to get W. As he left C called that if he recovered he would get W again. H slashed W's nose and took her home. C was doctored by the Buffalo society. That night W ran away and came to C. "Look, I am wounded too", she said. C recovered. "C's relatives did not prosecute because C did not die, but H kept out of C's way".

Then C, displaying the height of courage, absconded with W again. People were much afraid as to just what action H would take.

Some time later on the way to the sundance, H and some other chiefs were drinking whiskey together, and many were drunk. While they were gathered together in a tipi, the trouble between C and H came up. Ten Medicine owners were there and someone suggested offering the pipe to H.

Kicking Bird was pouring and everyone was feeling good. KB pulled out another case of whiskey and said to H: "I'm going to ask you a favor now, and I'll give you whiskey if you consent. Will you do it?" H: "All right. Today whatever you want me to do, I will." "I'll give you this whole case of liquor if you'll forgive C". H waited a long time, and then said, "It's awfully hard for me to forgive, but since you offer me the whole case of liquor, I'll forgive him. Send out and get him, and I'll talk to him." C was afraid that H was drunk and would kill him, so the messenger returned saying that C refused to come. KB went himself and told C that everything was all right, and that things would be fixed up, but that H wanted to talk to him first. C was brought to him into the tipi. He was seated alongside of H. Both had knives.

Our informant S, aged six, remembers that he was swimming when two men on a horse came and said his father wanted him to come. They took him to the tipi. When he got there he saw a large crowd of excited people around it, all expecting to see one or the other of the men killed. H called his son over to him and sat him down on his lap. When S sat down on H's lap he felt the knife hidden under the blanket he was wearing. When S put his hand under him to move it aside, H indicated by a motion that he should be quiet and not give away the fact that he had a knife. The men gathered there with the Taimé-Keeper (F of H), expecting to have to stop the fight between the two principals. Then H told them to light the pipe. Everyone said "Aho (Thank you)," knowing that it meant peace.

H spoke, asking all the men present to listen. H turned to C, pulled the blanket off C's head and told him to listen. H said, "Now, what do you think of me? C: "I know you're my brother; we're related." H: "What do you think of this little boy?" (referring to S). C: "He's your little boy and you love him. I'm your brother; so he is my son too. You love your son. I have no children. I love him as much as you do." All quiet. All went well because of C's attitude toward H. H: "I had decided to kill C. I thought I did before, but he was not easy to kill. I said I would meet him again and kill him, but because of the answers he has given and on account of my son, I will not kill him. We won't fight. We'll be friends and forget. I am his older brother."

H smoked the pipe. After smoking the pipe H told C to take his blanket and go. There was no exchange of gifts following the pipe smoking. C did not smoke, for there was no compensation stipulated, and he was not out for revenge. H took his son home with him. The following year H was killed by Utes. Until H's death S lived with H and his other two wives (his stepmothers), then went to live with his grandmother, the Taimé-keeper's sister, a father's sister of H. After the death of his grandmother, S was sent to live with W (his mother) and C.

Analysis: There are several versions of this affair. Heapabear's, confirmed by Hodltagudlma and Ato, deserves credence especially as to the last part because he was an eye witness. Kuito, a most reliable informant, placed the sequence of events as follows:

- (1) C Absconded with W.
- (2) H shot C, cut W's nose.
- (3) On recovery, C sent a Ten Medicine pipe, which was accepted. H adopted C as a brother. Peace restored.
- (4) C absconded again with W, stayed a long time with Comanches where he acquired a big painted tipi. W had a child when she returned. No further action.

Kuito's comments were particularly significant, for he gave the case as an example of how a young man of ordinary rank could rise to first rank: "By stealing the wife of a principal chief and living in a big tipi, because of his outstanding courage and because of his accumulation of property, C came to be a personage of the first rank, an onde. By eloping with the woman a second time he displayed the height of courage."

Thus the case illustrates clearly the use of judicious absconding as a means of raising one's status. At the beginning of the episode, H

was above C in rank. C made an impressive effect on the people by looking H in the eye as he was shot, then in vowing to get W again, and finally by absconding a second time with W in the face of H's demonstrated ferociousness. The Kiowa spoke of C as one of the bravest of men, and as we have seen, specifically stated that by his achievements here, on the warpath and in his general behavior, he rose from commoner to onde. The case may also be construed as a disturbance of the public peace, because it took a whole group of eminent men to settle it finally. Catching a C and W in *flagrante delicto* always meant a terrible outburst, but since H was onde, the "shame" was the greater (Cf. 10) and could only be wiped out with death. Those of high status had more "honor" to defend than those of low, having more to lose; consequently, they did not hesitate to refuse the pipe in order to avenge themselves. Peace was restored by invoking the child, as well as the fact that H and C were brothers (presumably distant), for one was not supposed to refuse a kinsman's request in spite of the fact that the bonds were not close enough to prevent H from shooting at C. The conversation at the time of peace-making was given by an eye-witness.

Case 48

H—Big Bow, one of the greatest warriors of the tribe (Cf. 2, 36, 51, 53, 54, 58, 61, 65, 66, 67, 77).

W—

C—Pwtwdl, prominent Ten Medicine owner, probably not equal to H in war record (Cf. 44, 45, 67).

H married W and immediately after went on a war raid. When he returned in about two weeks he found that W was living with C. H shot two of C's horses. C, who was standing nearby, was enraged and pulled his gun out. Kwtompte, a topadok'i, stopped the fight, and the matter was settled.

Analysis: H and C were both very high, with H probably somewhat greater than C. H, who did not usually take action, may have felt C and W were practically caught in the act since they did not apparently even leave the camp. A fight started when C resisted legitimate compensation (Cf. 64), though shooting horses instead of taking them, was always a hostile act. C ought to have accepted the punishment, however.

Kwotompte, though not a pipe owner, was a topadok'i of tremendous prestige, and incidentally the grandfather of H's wife Onkima. It is not stated whether the W involved in this case was Onkima. However, Kwotompte was H's father-in-law's father, and in any case, stood to H in a relationship of extreme respect.

B. C HIGHER THAN H IN STATUS

The evidence set up in the previous cases for status as a determinant in the outcome of a conflict is considerably strengthened when we present situations where status differences were at a maximum. In the next four cases the plaintiff was very low and could not or did not ever claim his full rights as an aggrieved husband. We have no cases of a man of really low rank who dared to abscond with the wife of a very high warrior, with the possible exception of No. 10.

Case 49

H—Kinsei, a Mexican captive; *kown*.

W—an extraordinarily beautiful woman.

C—an onde's son; high rank.

C took W away from H. H couldn't do anything about it. H was a commoner. H was afraid that C's father would attack him. H had no relatives for his foster-father had died.

Analysis: A poor man of low status could do absolutely nothing against a high co-respondent. If he had had relatives it would have been different for even a brave warrior feared a poor man with a large family. H had no relations, so was powerless.

Case 50

H—Gukini (Long Horn), a poor man and a captive; distant brother of C.

W—poor also. She was the great White Bear's daughter, but became poor after her father's death.

C—Apiaton, onde, prominent (Cf. 68).

Time—1878.

C took W to his own home, where his two other wives already lived. H saddled up though the distance was short, and rode from his tipi to C's. Everybody watched to see what would happen. C had his three wives in there. H dismounted and sat alongside them. Finally he said: "Brother, you have two sisters as wives. Both of them are nice women and they take

care of you. Still you are not satisfied. I am a poor man. I had a wife to cook and take care of me. I was married once before, but I quit her because I wanted this one. She was poor and her (distant) relatives gave her to me (but with some help from an adopted mother and her sisters)'. C laughed a little. Then C said: "I had intended to keep her as my third wife, but if you want her I'll give her back to you." Then W willingly went back to H. H roped and caught C's favorite horse and kept it as his property. Afterwards C and H never visited each other.

Analysis: The grim realities of status clearly overrode the bonds of kinship. Arriving on horseback seemed to imply that kinship bonds were forgotten. H's humble behavior to C in sitting with the women, in referring to the fact that W was a woman not bought or eloped with but *given* in marriage (occurred only when H was low and had no implication of W being low), and in pleading pathetically for her return were the actions of a man who was cowed and could only beg for mercy. That H might take a horse in composition reveals a better situation than in 49, but even the horse seems a gratuity from C. High-handed and inconsiderate actions of this sort towards any poor man, especially a follower, did not improve onde reputations.

Case 51

H—Toyeidei, a very low commoner.

W—.

C—Little Bow, onde son of Big Bow (Cf. 19, 30) also called Young Big Bow.

Time—1870.

C stole W. When H heard about it, he hid because he was afraid of C. People told him to go and whip his wife and not be a coward. H had no relatives but his father. It was the father who finally whipped his daughter-in-law, then went off to hide. Big Bow, C's father, was the chief of the camp, and C was in the same group. "Since his own son was involved Big Bow could not be appealed to." H was not a relative of Big Bow nor was he particularly attached to him. He moved around a great deal from one topadoga to another.

Analysis: Facing C was unthinkable for H. The only course was to take it out on the wife. To show how deep was the resentment felt by H's father, we need only recall that because of the respectful relationship between father-in-law and daughter-in-law, he was

risking social ostracism and internal shame in order to wreak vengeance, however ineffective, upon the woman. It is possible that Big Bow would have reproved his son for such action towards a loyal follower, but H was not a regular member of his camp. H could not depend on the chief, so he was powerless. His lone kinsman, even though it was his father, was not adequate support against such a family as Little Bow's.

Case 52

H—*Ōnkiibot*, *kōwn*.

W—a captive.

C—Clyde Koko, an *onde*'s son.

R—*Kiitaido*, a relative of H, and a buffalo medicine man.

Time—1887.

C stole W, and brought her to a house not his own. H got R to go along with him to get his wife back. C ran off as they approached. H took W home to his tipi. R then witched C so that he became impotent. C was a bachelor for a while, but *Tonok'wt* finally cured him.

Analysis: If a commoner had any good relatives at all, he was able to take some action. H backed by a kinsman set out to face C. Probably the sight of the powerful medicine man frightened C for he realized there might be sorcery, which was a dishonorable but effective attack from those who could not compete as warriors (20, 21). Witching was almost the only weapon a commoner had, and in order to get it he had to have some relative who was a medicine man, for it was impossible to hire a sorcerer.

Case 53

H—.

W—.

C—Big Bow, great warrior (Cf. 2, 36, 48, 51, 54, 58, 61, 65, 66, 67, 77).

C ran away with W and went on a war party. When he returned H came after her, but C refused to give her up. C was such a great warrior that "H was afraid to start any trouble so did nothing about it."

Analysis: We do not know the name of the husband, so cannot check his rank. The informant explained the behavior in terms of C's tremendous reputation which may mean status.

Case 54

H—Lone Wolf, a well-known topadok'i; onde (Cf. 1, 23, 46, 68).

W—.

C—Big Bow, a greater topadok'i and warrior, and more highly esteemed by the people than H (Cf. 53).

H accused C of committing adultery with his wife. C denied it. H insisted it was true and heaped verbal abuse on C. Finally C got fed up with H's threats and told H to do what he liked, but to remember that C would retaliate for every act of his. If he shot C's horses, C would shoot some of his; if he shot C, C would shoot back. H blustered and threatened, but didn't do anything. So C said, "Maybe this will make you act!" Whereupon he beat H's horse on the head with his whip and then beat H and drove him away from the camp. Informant says everyone knew that C was guilty, that he was bluffing about his innocence.

Analysis: The quarrel was aggravated by insults from H. Being guilty in no way made C more amenable to accept the accusation. But C, seeing that he had the upper hand in the dispute, goaded H and jeered at him to make his own triumph more complete. It was a great chance for outfacing and C made all he could out of it.

Case 55

H—Guibwde; Ten Medicine Keeper; ondegupa (Cf. 2, 3, 5).

W—.

C—Saondeton, ondegupa, later onde; head of Tonkongya society (Cf. 2).

H led a war party and was mean to several of its members. C, known as a brave and courteous man, decided to test H or teach him a lesson, so C went along in the menial capacity of cook the next time H took a war party out. H brought W along. Several days out C went off for two days with W, then brought her back, thanked H for a pleasant time with W, and behaved very graciously to H. The other men held their breaths, expecting a terrible explosion at this mortal insult. Later white soldiers appeared. W was holding H's spear as he prepared for battle. C asked for it. With the spear, C rushed fearlessly into the fray amid a hail of bullets, speared several whites and returned unhurt. Then C returned the spear politely to W. H said, "C, if you had not performed that deed I would have killed you." C said, "H, if you had laid a finger on W I would have killed you."

Analysis: "Brave and courteous" was the favorite phrase to describe a fine Kiowa. C had suffered no personal injustice at H's

hands. Nevertheless, he "patriotically" assumed the responsibility to teach H a lesson, i.e. to prosecute for the tribe for flagrant misbehavior. He set out to provoke an incident to test or shame H, and also probably to increase his own status. The implication is that if H were brave enough, he might treat other people as he would. W was not an object of love to C but a means to an end, consequently he would not permit her to be harmed in the fight. C and H did not get into mortal conflict on the spot presumably because of war party discipline, although C's courtesy was the ultimate in provocation. There was also no Medicine pipe along to stop a fight once started, so it would have had to be fought out to the finish. H was forced to recognize the brilliance of C's deed. H's remark to C sounds like a feeble face-saving effort, but C did not accept the proffered reconciliation. This is the incident referred to in Case 2, when H was disciplined by C for the societies. It was because of this specific demonstration of superior status that C was able to say at the sundance, "H has no courage" and to order H, the trouble-maker, to behave. H obeyed, too. This case is a very important one in demonstrating how superiority in status was established and used in legal situations.

A group of cases dealing with horse-thefts are inserted here in order to document further the effects of status. Case 19 will be recalled as showing the reluctance of a captive's family to attack a prominent family.

Case 56

KJ—Kiowa Jim, a captive, *kown*.

EH—Eagle Heart, a great arrow-maker, *onde*, fine family (Cf. 57).

KJ lost his horse. For several days he looked for it. Then one day he ran into EH mounted upon the very horse and asked him whether he had seen it. "Since EH was an *onde* he didn't want to embarrass him by asking for it directly." KJ went into EH's camp then and told the latter's wife about the horse. She scolded her husband and had the horse returned. EH was a great horse thief. "A great disgrace was to have a stolen horse taken back by the rightful owner in public."

Analysis: The low-born plaintiff did not dare ask the thief directly for his horse. He had to go to the wife.

Case 57

K—Kuito; half-breed, though with good connections; higher status than Kiowa Jim (Cf. 56, 44); informant.

EH—Eagle Heart (Cf. 56).

Once K lost a horse, a good sorrel pony. He hunted for it for two days. On the third day he saw a man chasing a herd of horses. K rode up to inquire about his horse. As he rode up he saw that it was EH riding his horse. He said to EH: "Say, I've been looking for that pony for two days." EH very innocently answered, "Is this your pony?" Nothing more was said. K took his pony home.

Analysis: K, of somewhat higher status, acted less obsequiously than Kiowa Jim. Perhaps there was no objection in claiming his horse when Eagle Heart was alone.

Case 58

A—Aiseoide, a very eminent Ten Medicine Keeper; ondegupa (Cf. 35).

BB—Big Bow, the famous warrior, greater than A in reputation; onde (Cf. 2, 36, 48, 51, 53, 54, 61, 65, 66, 67, 77).

A had trouble over a horse with BB. The Pawnee were visiting and a great number of horses were given to them. A had an *ode* child, Spotted Bird. BB had given a Pawnee a stick, thereby promising him a fine horse. BB's son wanted A to have this horse for his *ode* son so BB's son exchanged the horse for another which A had. When BB heard of the exchange he was very angry. He wanted his horse back but the exchange was already made. A said that he would return the pony. He was in the right but he didn't want to have trouble. When A brought it back, BB's son was there and told him to keep it. A took the horse back again. Then BB came after it. A took his gun and met BB saying, "If you mean to bluff me, if you think you can use your power as a war chief, try to take that horse and I'll stop you with my gun." BB just rode away.

Analysis: A father and son were at odds here over the right to give away a horse. We do not know just why BB's son had such an interest in A's *ode* child. A cooperated graciously once, but would not tolerate being buffeted about. The final remark is of the greatest interest. A was below BB in status, so it was possible BB could have outfaced A in a show-down. But apparently to be accused of using one's *onde* status to attain personal ends effectively prevented a man from doing so, and forced him to conform to Kiowa

explicit legal forms, which *did not recognize status* as a formal factor in legal procedure. We have an analogy in our culture. If someone accuses a millionaire of trying to use his economic and social status to beat the law, the man will have to be careful to remain strictly within legal bounds until the memory of the accusation has died down.

There was an absolute status difference between any captive and a full-blood. Unfortunately we have no clue to behavior when a distinguished captive faced a lower-rank Kiowa. However, the following cases show conflicts between captive plaintiffs of distinction with strong foster-kin, against full blood defendants of good status. The point is that no non-Kiowa, no matter what his achievements, could prosecute entirely for himself any more than Kinsei, the *kown* (49), could, unless he saw himself in a very advantageous spot. In 59 the case was taken completely out of the captive's hands by his foster kinsmen. They prosecuted according to their status level. Cf. Case 21, when both litigants were captives, so the plaintiff might take action directly.

Case 59

H—Giagopte, a captive, adopted into a good family.

W—a full blood.

C—Tsadlwote, good status, a small topadok'i, somewhat short of relatives (Cf. 43).

HB₁—Baitalyi, the well known warrior, brother of H (Cf. 5, 70, 71, 72, 73).

HB₂—Pagorogudl, also of excellent status, brother of H (Cf. 43).

C committed adultery with W and she ran off to C's camp. One morning HB₁, who was in C's camp, saw C come out of W's tipi. Later HB₁ saw C and asked him whether he was the man who had been in her tipi. C never answered. At Anadarko one day HB₁ tried to take a horse away from C as compensation for his brother. But C who had never admitted having been the co-respondent, would not give it up. So HB₁ shot his horse under him. C returned fire and killed HB₁'s horse. They were then both on foot. HB₁ shot another of C's horses that was nearby, immediately after which his gun locked. C ran up to HB₁ and asked him what he was going to do—did he intend to kill him? "This was a sneer because he knew HB₁'s gun was locked." HB₁ said no. At this moment a Ten Medicine Keeper ran up and separated them.

The sequel to this incident was that C thought he ought to have the woman because his horses had been killed, so he took her. Some time later H and HB₂ saw C and a friend riding. H rode up between them and said to C, "I've heard that you're gunning for me." C was afraid "because H had his brother with him, while he had only a friend. A friend is not as dependable as a brother." C answered no. C never gave up the woman. "HB respected his adopted brother, H, although he was a captive, and was willing to defend him."

Analysis: The whole vengeance episode was carried out between the full bloods. C and HB₁ were not quite equal in status. C jeered at HB₁ only when he knew he was safe (Cf. 54). Like men of high rank, there was no fighting until C refused to give up a horse in composition. It is not clearly expressed whether W was taken later because of a feeling that the wife belonged to him who had paid horses in compensation for her, or merely to get even with H because his horses had been killed (Cf. 72). H, the captive, seeing himself in an advantageous spot with good backing, while C had "only a friend", did not hesitate to take advantage of it. Yet his words were hardly of the jeering sort we find with full bloods in the same situation (Cf. 5, 54, 70).

Case 60

H—Gueiyoot, a captive with excellent connections.

W—.

C—Taiite, a distant relative of H; onde; in the great Koisenko society, therefore a very great warrior.

HBs—H's full-blood foster brothers, all of very good family.

W and C went on a raid together. HBs went after her and brought her back to H. C did not fight, just gave her up, and the matter was settled.

Analysis: HBs acted quickly and vigorously in defense of their captive brother against a very great warrior. H took W back, but his attitude was not revealed. C did not fight either because (1) he might have been intimidated at facing three resolute brothers, showing that even a great warrior could not outface three good kinsmen; (2) as a relative of H and HBs he may not want to fight his own kin; (3) he might be displaying onde behavior in not wishing to stir up a fight, or in acting as if the woman were not worth a fight.

The following case does not involve an absconding but was a horse quarrel, but is put in to show further how kinsmen had to support captive relatives if they were to win their legal rights.

Case 61

Pedlo—(Pedro), Mexican captive, with important foster kin.

Dohaate—Pedlo's foster-brother, an important warrior.

Ansaite—a prominent warrior, brother of the great Big Bow.

Pwate—(Cf. 29).

Ansaite lived with his brother Big Bow, the leader of the camp. Pedlo was also a member of Big Bow's camp. Pwate gave Pedlo's horse to Ansaite as a gift. Pedlo went to get it, explaining to Ansaite that Pwate had not given him anything for the horse. They began to use quirts on each other. Pedlo's foster-brother was Dohaate, and "that was why he was so bold." Dohaate went to see Ansaite to revenge his foster-brother. At that time Big Bow got back to camp and settled the matter. He said to Ansaite and Dohaate, "I have charge of this camp. I am responsible for your protection. You two forgive each other. Put your arms around each other and be friends."

Analysis: Pwate's action was high-handed, even against a captive. If Pedlo had not had a well-known foster-brother he could not have demanded his horse, much less dared to use a quirt in the fight against one of such a high family as Ansaite. However, Pedlo may have been tactless to demand the horse in public and so a fight started. Nevertheless, the defense of the captive's rights was taken out of his hands and assumed by his high-ranking, full-blood brother.

The last nineteen cases, besides 5, 10, 19, have demonstrated beyond any doubt that the relative status of opponents was a crucial point in determining the outcome of grievance prosecutions. The next group of cases illustrates that certain types of behavior were prescribed for certain absolute status levels, especially those of topmost rank who were always to avoid quarrels, ignore injustices, or at least prosecute mildly, especially among themselves. The same injunction applied to Ten Medicine Keepers. We have already depicted situations where men of onde status and particularly Keepers prosecuted a grievance vigorously, but there

was usually some aggravation of the quarrel like insult (10, 11, 12, 54), flagrante delicto (36, 47), or resistance (48).

Case 62

H—Eimonkiana, onde (Cf. 79).

W—Anandwma.

C—Odlpw, onde.

C eloped with W. There were no raids, no peace pipe. Nothing was done at all. W stayed with C.

Analysis: H acted with the utmost calm. The explicit comment by informants was that a top status onde husband thought, "Why should I go after that woman? I am an onde. I can get any woman I want. She is foolish to run away from me."

Case 63

H—Gule, a very great chief.

W—.

C—a young man.

Time—about 1860.

H was a great topadok'i, famous for his generosity and kindness. A young man took W on a war party. When they returned, H welcomed her back and was solicitous about her health and the hard trip she had been on. He took her back to his tipi and told her to prepare for a fine feast. He invited some of the principal chiefs to the feast and told the young man who had eloped with W to come. The lover arrived very nervous, not knowing what to expect. H welcomed him and called him his best friend. He thanked C for bringing W safely back, gave him a fine horse and told him to take W and make her happy. One of the chiefs got up and spoke. "I speak in behalf of my friend H. He has a big and generous heart. He is a real chief." After they finished eating, the young man rose and said, "I took this woman on the war party because she wanted to go for the adventure. I took her, fearing that my life was in danger, but my friend here has made me happy. He has offered me the hand of friendship and given me this fine horse. I am not worthy of such generosity. I confess that I am at fault in what I have done, and ask for forgiveness. H, you have treated me with love. In return I pledge you my love as a brother and friend as long as I live. Forgive me and take back your wife." H took W back.

"This is a famous story. It was considered an example of generous and open hearted conduct for all time. After that there were fewer cases of noses cut off. Only a great chief who had proved his courage beyond a doubt could have gotten away with such behavior and gained honor by it. An ordinary man would not have been able to carry it off and would have been laughed at." Gule was so well known for his kindness that his generous behavior towards C and W was considered consistent (Cf. 73).

Analysis: H was far higher in status than young C. His extreme generosity to C, perfectly consistent with his previous actions, brought him added glory as the *ne plus ultra* of onde behavior. Such action would also have been one way of acquiring a devoted follower. The case shows that women sometimes took the initiative, and this made H's generosity the more lofty. W would be greatly shamed by this outcome.

An onde did not allow repeated defections to go unnoticed. There was a point beyond which action was imperative, and the onde was justified in taking steps to protect his honor. The following brief case is of special interest in showing how a topmost chief acted when there was persistent aggravation.

Case 64

H—Setangya, highest in the tribe (Cf. 3, 20, 41).

W—.

C—Maientende, also onde (Cf. 20, 41, 76).

C had an affair with W. It was reported to H who did nothing. H was told about it a second time and this time H took a horse from C. C refused to give the horse up and got a gun. H had a knife and they fought. Seitgatogu and Kwohohon stopped it.

Analysis: Observing the most perfect onde behavior, H ignored the defection and the wife remained with him. On the second offense, however, H exacted a horse in compensation. A high rank husband always took very little. There was no chastising of W. However, H was goaded into action by C, who insulted H by refusing to give up such a modest compensation as a single horse. C was probably trying to see just how far he could go. Kwohohon was a Ten Medicine Keeper in the following of H, and may have used his pipe. Seitgatogu was a prominent old warrior.

Case 65

H—Big Bow, onde (Cf. 2, 36, 48, 51, 53, 54, 58, 61, 66, 67, 77).

W—Onkima, highborn, one of the three most beautiful women in tribal memory.

C—Dohwasen, onde.

C absconded with W. H did nothing about it. He went out on a raiding party and C married W. W went back to H after a time, deserting C. C went out on a raid to forget, or rather to let others forget. But C's sister came to W and cut W's hair for deserting her brother.

Analysis: H displayed quiet onde behavior and even took W back later. C by that time felt himself W's husband, so when W left C for H, C's sister, feeling her brother had been ill-treated, registered her protest.

Case 66

H—Big Bow, onde (Cf. 65, etc.).

W—Onkima, high born.

C—Guitadla, onde (Cf. 47).

W and C ran away together. Nothing was done then. W later came back to H. H's sister Dombedai cut off W's hair. H refused to take her back, so she returned to C. H's two brothers took horses from C.

Analysis: H caused no trouble but his brothers and sisters, resenting W's behavior, took from C compensation which was willingly given. In any case, prosecution was relatively mild.

Case 67

H—Big Bow, the great warrior, head of Adltoyui society (Cf. 65, 66, etc.).

W—.

C—of another camp.

R—Pwtwdl, Ten Medicine Keeper, very prominent, head of Tonkon-gya, distant uncle of H, but of the same age (Cf. 44).

While H was on a raiding party, W was taken by C. H threatened to kill C, and as he always did what he said he would, another relative of H, his brother-in-law, sent R to reason with him, asking him not to kill one of his own people. "Treat me as a relative, and do what I ask", said R. H refused to listen and went out with his things to kill. He was gone a half-day. Out there he realized he had refused a relative, so spent

the time cutting willow branches for a sweat bath. When he got back he got R's medicine and gave it a sweat bath in atonement, and said he was sorry. W stayed with C, and H did nothing.

Analysis: A Keeper, seeking peace from his own relative, invoked kinship bonds rather than the formal pipe mechanism. Ignoring this relative's request nevertheless implied rejecting his pipe, so a sweatbath to the medicine was atonement, as well as an act ingratiating to R. H may have been somewhat remorseful at having acted so hot-headedly, although previous cases have shown that he was not above vigorous action when provoked. H may have reflected upon his onde obligations and reconsidered his threat.

Case 68

H—Davis, son of Dohwascen; onde.

W—one of two.

C—Teinegut, youngest brother of Lone Wolf; onde.

CB—Lone Wolf, brother of Teinegut; onde (Cf. 1, 23, 46, 54).

T—topadok'i, Apiaton, one of the high men in the tribe at the time (Cf. 50).

Time—1890, on the reservation.

C stole H's younger wife. H was very angry and made a search for the couple, but without success. H visited CB and they quarreled. H said to CB, "You aren't a chief, you're nothing." CB was angry. "He shouldn't have been angry because his brother was guilty." Since there was no Ten Medicine Keeper around, T came up and interfered, promising gifts to both H and CB if they stopped quarrelling. Later H got his wife back.

Analysis: A serious fight in which a Ten Medicine would have been used had it been available was stopped by T as the distinguished topadok'i in the interests of law and order. The dispute was fraught with danger because H insulted CB. Those very words, spoken to an onde on two other occasions (10, 11) cost the insulter's life. However, CB was not of Poligya's stature in the tribe. The aggravation of insult may have been the reason why T even offered gifts to each side to restore order.

H and C were both onde because their parents were. It is certain that neither H nor C had war records of much distinction because war was stopped in 1875. As a matter of fact, with the prohibiting of

war-raids in 1875 so that further achievement was impossible, all statuses as they existed in 1875 became crystallized and semi-hereditary from that time on. Families are ranked today according to the status of fathers and grandfathers as they were about 1875. It may be for this reason that H and C were called *onde*, but did not act as generously as a man secure in his position at the top.

Case 69

H—Teineigudl, Keeper of a Ten Medicine.

W—Tsatakahodl, true owner of the Bundle kept by H.

C—Mwine, another Ten Medicine owner.

Time—perhaps after 1900.

W inherited a Ten Medicine, and H by virtue of being the husband of a Keeper was custodian of it. The wife of a Keeper or a woman who was a Keeper ought not to commit adultery. This chastity taboo applied to the man as well, but not as strongly. Now C, another Keeper, was having an affair with W. Gayadl, another woman Keeper, was the intermediary between W and C. C would come every weekend from Hobart to stay with H and W. Once W and her sister went up to Hobart to put up a sweat lodge for her Bundle. This was a pretext to spend some time with C. She returned, spent some time with H and went back again, this time to live with C. She left her Bundle with H because she had to take care of C's. This amounted to a settlement. Later H went up to Hobart and told C that he could have W. C thanked him. Next day C and W were married by law. H later married another woman.

Analysis: The mild behavior of the two men was in strict accordance with their enjoined behavior as Keepers, although C and the woman did not hesitate to break the sex taboo. Both men, however, came from good families, and so were also acting in proper *onde* fashion. These two behavior patterns of *onde* and Keeper coincide. A more realistic analysis of the case may be that W and C "bought off" H by settling for the tremendously valuable Ten Medicine Bundle.

Case 70

H—Guikwde; *onde*; great warrior (Cf. 7).

W—.

C—Baitalyi; *onde*; great warrior (Cf. 5, 59, 71, 72, 73).

T—topadok'i, Stumbling Bear, a very famous leader; *onde*, in whose camp both C and H were living (Cf. 71, 77).

H accused W of having had an affair with C. She denied it but C spoke up and said, "Sure I did. What are you going to do about it?" They began fighting. T got in between them and said, "You quit this. It is not good for the people." They stopped.

Analysis: Since C flaunted his misdemeanor in H's face, a fight could not be avoided. All three of these men were very eminent. The topadok'i stopped the fight by referring to the internal sanctions of being onde. T's words expressed the main explicit reason for mildness on onde levels: these men were supposed to set an example to the people.

The stories about Baitalyi illustrate one very important modification to the statement that certain behavior was prescribed for certain status levels. He was a very great warrior and should have acted magnanimously in the numerous quarrels in which he was embroiled. However, it seems that we have here a personality that could not conform well to the onde norm. He was a bully and very hot-headed, but not as courageous personally as Big Bow, Guitaide, etc. We have already seen him in action in the famous Case 5. He fought in 59 in defense of a foster-brother, but was outfaced. He always seemed to pick fights, only to go down in defeat. Baitalyi had a considerable following in spite of his unseemly behavior. Competence in economic organization (the *sine qua non* of a topadok'i) was undoubtedly one reason for this. A far more important reason was that he lead the faction in the tribe refusing to traffic with whites at a time when every effort was being made by them to win over the Kiowa by treaty, gift, (and massacre), in order to break down their autonomy. The tribe split into two factions, one led by Kicking Bird, who played along with the whites, welcomed them, and built himself up into the chief mediator. But Baitalyi would have nothing to do with the whites, lead his people to the south to avoid them, and was consistently hostile. Many people probably rallied under his standard for this reason.

Case 71

H—Baitalyi, great warrior but a bully (Cf. 70).

W—one of three.

C—Stumbling Bear, brother-in-law of H, onde, three wives, and "none ever ran away." (Cf. 70, 77).

F—Dwondlki, a friend.

H, C, F were riding along, drunk, C riding his wife's pony. H told C how much he loved him. F laughed, said H must love C for C loved W. H went after a gun, saying to C, "I'm going to kill you." C answered, "Be sure you make a dead shot because if you miss, I won't." H backed out. H left W. Later C married W.

Analysis: It is obvious that C was not W's brother, but must have been a distant, classificatory brother-in-law of H. Here H started a fight and then backed out. However, we must remember all were drunk. H may have backed out because C was higher than himself; because C was his topadok'i (70); because H did not want to start a real fight with his own brother-in-law, a situation which would be very disgraceful; or because he may have waked up to his onde obligations in time.

Case 72

H—Baitalyi (Cf. 70).

W—.

C—White Bear, one of the greatest warriors in the tribe; rather hot-tempered, but never mean; onde; higher status than H (Cf. 2, 5).

H was jealous of C and had been accusing his wife of going around with him. Finally H made up his mind to act. One morning people heard two guns go off and saw that H had killed two of C's horses. He started to ride back to his tipi, and C took his gun and set out after him. H was already feared because he had killed a man (5). Nevertheless, C yelled out to him to stop: "I've heard that you have a record as a killer, and I've wanted to get at you! This is my chance!" C shot at H's head, but the horse reared, and was shot through the head and killed instead. As it fell it pinned H under. C jumped from his horse and raised his rifle again, but someone grabbed him from behind and held him. Others grabbed H also. Since they could not finish their fight then, they both went home.

C said, "I don't like the idea of his killing my two horses. I'm going to steal his wife and get even with him." This he did by telling W that he would kill H if she didn't come with him. C brought her back to his camp and kept her. H was ashamed, but afraid to do anything about it, so he let it go.

Analysis: H again showed his touchy disposition by daring to attack one of the tribe's greatest members and was ultimately outfaced. C was a very impressive character in Kiowa life, for it was he who headed the disciplinary delegation against Guibwde (2). The fact that H was "already feared" shows the continuous social reaction against a murderer which might well be construed by the Kiowa as part of *taido*. C's words indicate that he, like Saondeton of 55, had in mind H's criminal past when he prosecuted his private grievance. It will be remembered in Case 5 that Tencizeptei's family was prevailed upon not to prosecute for the murder because it would have been suicidal. The quarrel was suspended but this story shows how it lived on in people's minds. C may have been annoyed that H had not challenged him directly, but had accused W. In the retaliatory absconding W was not taken for her own sake nor because compensation had been previously exacted for her, which would make her rightfully C's, but to get even with H. The coercive threat in this final episode was made not against her (as in 10) but against H. H may by the time W was taken have realized what it meant to provoke so great a man as C, so decided to let it go.

Case 73

H—Baitalyi (Cf. 70).

W—.

C—A'totaide, good status.

W was stolen by C. H did nothing about it, and when they returned he took her back. People said, "he must be afraid to do anything to C." He lost respect. "H was not a generous and good man like Gule (Cf. 63) but was always fighting, so he was not expected to act in a generous manner in this case. Generosity was inconsistent with his past actions as a bully and showed that his courage was a bluff."

Analysis: H tried to follow a pattern of gentle behavior inconsistent with his former actions. People knew very well what to expect of him in view of his past behavior and his life situation. Gentle behavior had to be consistent if it were not to be regarded as weak.

Case 73 is a crucial example, showing that although the Kiowa had enjoined certain types of behavior on absolute and rel-

ative status relationships between participants, they also recognized that a strong personality might set up its own procedures to be considered normal for that individual. This special behavior, and that of persons following the customary channels, had to be maintained consistently. Any inappropriate deviation from normal expectancy, i.e. following a pattern inappropriate to a man's class or his personality as defined in his past life, involved loss of prestige. The case for regularity of Kiowa legal procedures is strongly supported by this feeling of expectability (Cf. 11), and the strength of the negative sanction, i.e. ridicule and loss of prestige where there was nonconformity. The following cases further document this aspect of sanctioned deviations.

Case 74

H—Smoky; *kwoon* at the time, later *onde*.

W—.

C—Tonok'wt, famous medicine man and vicious sorcerer (Cf. 8, 31).

C stole W. "H didn't get mad. He didn't raid C or whip his wife. He just forgot it. They were all in the same camp, almost tipi beside tipi. It was incomprehensible. H never got mad. He used to get up in the morning, do his chores singing. He went about his business as if nothing had happened while all the time W was sleeping next door with C."

One day H asked C to return his wife. He asked pathetically. "He was very much in love with his wife." C answered, "You can have her back. I've told her to go back but she won't go." Finally C forced her to go back to H. H took her back and treated her well.

"H was deeply in love with her. But she ran back to C again and H never got mad. Nobody could understand it. H was a good-looking man. C was the ugliest man in the tribe. But why didn't H fight? Maybe H was afraid of C's medicine but that's not good reasoning. H just took another wife. People laughed at him. He was a *kwoon* at the time. Later he became an *onde*."

Analysis: H was ridiculed for allowing such flagrant insolence to go unchallenged. There are several possible explanations: 1) H may really have feared C's sorcery which had blinded and killed other luckless husbands. W's going back to C, who was so ugly, may have been interpreted as bewitching. 2) H may have been a deviant personality in the tribe with his singing and happy-go-

lucky ways. Few Kiowa admitted to being "deeply in love with a wife." Asking for her is "pathetic", like Gukini (50). 3) H was trying to display the consistent gentle behavior of all onde, though he had not yet attained that rank, even though the situation was practically one of adultery caught in flagrante delicto. In any case, at this time H lost face by not prosecuting the offense.

Little was known regarding H's rise from *kown* to *onde*. But it should be stated that these individuals lived recently, i.e. after the war raids had been stopped and the tribe was on the reservation. Consequently, H's *onde* status could not have been based on the old criteria. Age itself now tends to give eminence, for these persons have within their memories much of what remains of the old tribal culture. Consequently, prestige and "onde" status may now also be acquired with age, as well as inheritance (Cf. 68).

Case 75

H—Smokey's father, status unknown.

W—.

C—.

W and C went off on a war party together. When H next saw her he treated her nicely, said it was too hot for her to be out, helped her off her horse, and took her back. He was ridiculed for this. "It was low and weak" of him to beg his wife to return after running away.

Analysis: Loss of status apparently resulted from failure to observe proper behavior.

Case 76

H—Horse (informant), a half-breed with good foster-relatives (Cf. 31, 40).

W—.

C—Tokiamot, a full blood, Ten Medicine Keeper.

H was separated from one of his two wives. After leaving him, W insulted him by remarking that she had no use for a mixed-blood. While the W was living with her family, C eloped with her. On account of the insult, H decided to do nothing about it in order to show her that he did not love her. But his brothers were insulted by the elopement and wanted revenge. They called a conference and called H. The oldest brother, Maientende, said, "Brother, I am angry. Since that man ran off with your wife, we must decide what to do." H felt embarrassed because he had

already decided not to act. H told them this and said that he was not angry. If they destroyed some of C's property it would embarrass him. While they were talking a Ten Medicine Keeper came with a pipe to ask for peace. He said that C's family had sent him and that there were two horses for H at his tipi.

Maientende said, "We are angry, but since H doesn't want us to retaliate we will smoke the pipe." The brothers smoked. H did not smoke since he had not intended to take revenge. Just then H's six sisters arrived armed with butcher knives and very angry. "We have come prepared to avenge our brother. We are going to chop up C's tipi and belongings." He persuaded them to desist. H did not accept the horses that had been offered. He wanted to show that the affair meant nothing to him.

Analysis: H was a captive and no warrior, yet was trying to exhibit onde behavior in spite of an insult. His kin did not expect this loftiness, and the full-bloods took up the quarrel for their captive relative to the fullest extent. His brothers prepared for revenge, his sisters for a property raid. A destructive property raid was the regular procedure for women for prosecuting a grievance. The behavior of C's family in sending the pipe was quite proper in view of the great show of force in H's camp. Something was wrong, though, for H felt embarrassed. His words are of the greatest interest to us, expressing as they do the onde rationalization for their mildness. The informant does not mention loss of status by this aberrant behavior, but after all, he would hardly be the one to admit it.

In the remaining grievance cases, most of which involve conflicts between husband and lover, the status information was inadequate or entirely lacking. It is not advisable to infer the status of the individuals from the action, yet that aspect should be kept in mind. Each case illustrates secondary points of interest in Kiowa life. In the first three cases, H and C, as far as can be determined from evidence here and from other Kiowa material, are approximately equal.

Case 77

H—Stumbling Bear, very good status (70, 71).

W—Edwte (Cf. 3, 32, 78).

C—Guiyemhe, not as well known as H, good status.

WB—.

W divorced H. When she left him she went to live with her father and brother who also lived in H's camp. She left her older daughter with H, but took the younger with her.

Two years later W eloped with C, who was also living in the camp at the time. WB had left on a war party two days before. They overtook the war party. WB gave them his swift horse and turned back with their slow horses. On the way back he camped with a returning war-party, among which was Big Bow, a cousin of H's. When Big Bow heard that W had eloped with C, he shot the horse WB was riding, i.e., C's slow horse.

Analysis: The right of a husband (or his kin) to prosecute for absconding continued even though the husband and wife had been separated for several years. Big Bow, kinsman of H, exacted composition for the absconding of W with C. Shooting the horse was not a serious loss. Big Bow prosecuted with no great hostility. WB turned back either because it was not proper for a brother to go along on his sister's "honeymoon", or simply because the one slow horse could not make the trip and the brother stepped out.

Case 78

H—Edwte, ondegupa with excellent kin connections (Cf. 3, 32, 77).

W—.

C—Kuitokongia, his distant brother-in-law (Edwte's sister's husband's brother) (Cf. 32, 79).

C ran off with W. H came on C in the middle of C's camp. They both had guns; H's was loaded and across the front of his saddle, but C could not get at his. H pointed his gun at C and told him to dismount. Gave him the choice of being shot dead or doing what he ordered. C chose the latter course. H told him to strip off his clothes in front of the whole camp. Several people protested, but H said he would shoot anyone who came close. C stripped naked except for a G string. H dismounted and said, "If you had tried to get away I would have killed you. Since you obeyed I am only going to give you a good whipping." He grabbed C by the hair and beat him savagely all over the body with his quirt until the blood ran down. Then H said, "Now I am satisfied. I have my revenge." He did not take W back.

Analysis: C, being caught at a disadvantage, could not protect himself, so had to submit to ignominious treatment. It is difficult to analyze this case in conjunction with 79 and especially 32. In the latter, a case of affinal difficulties, C had backed up H. They

were HB and WB respectively in that situation. Here they were bitterly opposed to each other, even though brothers-in-law. It is impossible to tell if the Kuitokongia of this case was the same person as the one in 79. These names were borne in every generation, were given to sons and nephews, all of which occasions great confusion, if not carefully checked on the spot. In this case there was no check. Cf. the description of Kuitokongia and his parentage as given in 79.

Case 79

H—Emonk'iana, good status (Cf. 62).

W—Anandōma.

K—C's mother's brother, Kuitokongia; onde, a Ten Medicine owner (Cf. 32, 78).

C—Kōgu, good status (Cf. 3, 91).

C stole W. H couldn't find out where she had gone. H called out to the camp, "Is anybody missing? I can't find my wife." Someone called out that C had run off with her. H's mother and sisters went to the camp of C's family armed with knives and hatchets. C's mother came out to meet them. She said, "Women, do what you please." (Usually when there was surrender like this, the raiding women stopped and considered; they called off their raid or were less severe in the attack. But these women did not desist). The oldest sister said, "Alright." She pulled out her hatchet and struck C's mother, inflicting a severe shoulder wound, then cried out, "I have got her! Cut the tipi, chop the poles, destroy everything in the tipi!" They proceeded to do this. Then K rode up and said, "That is enough. Go home!" K got Tēbodl to dress the wound. H took three of C's horses and swore to kill him. A Ten Medicine Keeper made him accept the pipe.

Analysis: H figured as plaintiff husband in Case 62, but there he took no action whatsoever. Here he acted very violently. He had, of course, given the defection of his wife a large amount of publicity by calling it out, so that he may not have had any other course than to prosecute fully. On the other hand, the co-respondent in this case may be somewhat below him in status, whereas in Case 62 the co-respondent, Odlpō, was his full equal if not superior.

The sisters, prosecuting in the regular women's way, showed extreme hostility in destroying rather than taking property, to say nothing of wounding C's mother. K did not arrive as a relative of

C, but as the defender of his sister (C's mother). He brought pressure for peace as a man of status and authority, and particularly as a Ten Medicine Keeper. The pipe was unnecessary here because women were never offered a peace pipe. His status is summed up in the following quotation: "Kuitokongia was the son of T^wkoide, a Ten Medicine owner. He grew up to be a brave, generous and a good leader. He later became topadok'i when his father, T^wkoide, gave him his own name." (Cf. 32, 78, and all the tales of T^wkoide 15, 16, 17, 28, 85).

Case 80

H—Onkua, alias K^wtok'i, a topadok'i.

W—one of two.

C—from another camp.

C stole W. They left camp and camped by themselves in order to avoid H. H went to the camp where the man's family lived and took several horses from them. Later H found them and took his wife away from C, who made no resistance.

Analysis: H, of good status, was perhaps facing a C lower than himself, who was in no position to resist; or, C may have been of equal status, but preferred not to start a fight by objecting to H's proper prosecution. The case shows that horses were not compensation for the wife here, for H brings her back. They were taken to soothe injured feelings and as recognition that H's rights had been infringed.

Case 81

H—.

W—.

C—Tencitaide, a Buffalo medicine man; not much of a warrior.

C absconded with W. H followed them and after overtaking them, offered C the alternative of death or having his hair cut. C preferred to have his hair cut off. The irate husband then cut off C's hair and stuck the buffalo tail medicine which C wore in his hair in C's mouth. H then took away his gun and horses and left him sitting there alone.

Analysis: Overtaking the couple as they eloped might be tantamount to catching them in *flagrante delicto*. C was armed, but may have been intimidated, or caught at a disadvantage, unable

to get at his gun. Anyway he did not have much courage and so preferred to submit to ridicule and the loss of property. It is likely that no aggrieved husband, no matter how high or what the complaint, would have so ridiculed an onde, though he might have shot it out. It is noteworthy that H did not hesitate to handle disrespectfully C's private medicine, like many other men placing honor above supernatural disfavor.

Case 82

Tountei and T'aadei had a fist fight over a girl. After the fight they went back to their own camps. K^wonbohon was topadok'i of Tountei and Gakomptei was topadok'i of T'aadei. K sent word to G to try to pacify his man while he handled his follower. The case was settled in this way.

Analysis: These two men were probably commoners, in which case we have a unique example of what happened when two men of low status got into a squabble. Since it was the duty of the topadok'i to keep order within his own band, having no recognized jurisdiction over men of another group, the solution is not unexpected. However, any topadok'i happening on the scene at the time of the fight might use his influence and prestige to restore peace.

Case 83

H—Toigu.

W—.

C—Teineigut.

C stole W. HB took horses and cows from C's brothers. C came back to the Indian Agent and asked for help. He wasn't given any, so he sent back the woman to H. H accepted her.

Analysis: Status aspects unknown. Case is aberrant because of the appeal to the agent. There is nothing in Kiowa life that would lead C to feel that he had the right to expect help after legitimate prosecution of an absconding. C probably just wanted to see if he could get more cattle from the agent, not knowing what to expect from "white ways." Perhaps, without his stock, C was not able to support his new wife, so sent her back.

There are two cases of rape (in addition to No. 6), which we have inserted here because they are related to the conflicts where two men were at odds over a woman. Raping did not often occur, but an elopement of a boy and girl, if it did not end in marriage, was construed as rape by the girl's family, and the female kin conducted a property raid of great hostility exactly as the mother of No. 84, or the sisters of No. 79, did. Elopements that did end in marriage were also accompanied by property raids more friendly and discreet. Properly speaking, these first elopements and these rape cases should be treated with marriage institutions as a whole, but that would expand our problem enormously. It may be said in passing, though, that the relative status of the bride and groom might create a situation where it was desirable to prevent the marriage. An aggressive property raid, where the women acted as if there were a rape, would do this effectively. Case 6 will be recalled: there prosecution was not individual, for the man appeared to be a public menace. Consequently, the women mobilized themselves and in a gang taught him a lesson.

Case 84

There was a widow of a prominent family who had to take care of her own horses. One day she was out looking for her horses a long way from camp. On her way she met a man and asked him whether he had seen her horses. He told her that he had seen them in a wood some distance away. He pulled her off the horse and raped her. When he finished he said, "Women of your class are good to rape." The woman rode back to the camp and reported the incident to her mother who was living with her. The mother was enraged. She sharpened her knife and cried out, "Where is this man? I'm good too." She cut up his tipi, shields, tipi poles, etc. The culprit's family was humiliated. They stood by and didn't interfere while the woman destroyed their property. The man to escape his shame ran away.

Analysis: The mother seems to be the only kinsman to prosecute for the widow, and she did so with the customary property raid. The kinsmen of the defendant, having accepted his guilt, could only stand aside. It was a very shameful affair. The words "your class" imply that the lower ranking Kiowa were very conscious and maybe somewhat resentful of horizontal stratifications in their society.

Case 85

T—Tawkoide, a Ten Medicine Keeper; topadok'i; mean and irascible
(Cf. 16 etc.).

Ω—Ωngogoik'i, another chief.

Once two Cheyenne women were visiting the Kiowa. They were not captives, but friendly visitors, and they wanted to stay with the Kiowas for a while. T took one of these by force. She cried, because she didn't like him. Another chief, Ω, went to T to remonstrate with him. Ω said, "You are topadok'i and one of the Ten Medicine Keepers, and yet you are mistreating a woman. You should be generous." T was sitting in a tipi, with a knife on the ground, and he was "probably going to kill her." Ω said, "You let her loose, and quit tormenting her!" Ω grabbed a knife, and prepared to stab T. T said, "Why, you are trying to kill me. I didn't know you were so serious. Yes, I'll turn her loose." "Sure I was going to kill you" answered Ω. "Promise you will let her alone." Then the affair ended.

Analysis: The self-appointed protector of the visitor invoked the internal sanction of a topadok'i as well as a Bundle owner's taboo on aggression in order to rebuke T. Ω forced T to desist by show of force. The verbal promises that were exacted were sufficient to restore order. It is possible that this is another version of Case 17.

Summary

Fifty-two absconding and adultery (real or suspected) cases have been presented, including Nos. 2, 5, 10, 11, 13, 15, 16, 17, 18, 21, 22, 23, 25, 26, 36, that were discussed primarily under other headings. The two rape (84, 85) and four horse quarrels (56, 57, 58, 61) are not included in the figures. The total number is not absolutely accurate because 13, for instance, is of doubtful inclusion as a "suspected adultery" case, and several cases (22, 23, 36) merely record the event in passing, the main action being on another score. Nine cases are omitted entirely because the data were too meager, e.g. "Setkopte stole the wife of X" records the event, but sheds no light on procedure. Elastic as the figures may be, they record clearly the tremendous predominance of conflicts between two men over a woman. Properly speaking, moreover, all levirate cases should be included too, because H's rights were inherited by HB and W's remarriage was practically an absconding from him. The most important aspect in this preponderance is the fact that

infringing a husband's legal rights to his wife was a means to a number of different ends such as raising one's status, chastising H for secondary grievances which might or might not have involved C directly, having an adventure, to say nothing of acquiring a loved woman. In any case, the prosecution methods, and the frequency with which these grievances developed into disturbing the peace and killing cases shows that the situations were usually highly charged with resentment and vengeful feelings. Over against this, the placidity of *onde* behavior and the impotence of low-class plaintiffs stand out sharply.

Procedure

As to procedure in absconding cases, it was considered legitimate for an aggrieved husband to defend his rights, and his kin usually gathered to back him if their help was needed. As pointed out before, his behavior was highly variable, ranging from complete non-prosecution of the grievance to killing the defendant. Often a man raged and vowed to thrash or to kill, but eventually accepted the pipe of peace with or without compensation. He might take property without going after C at all. If he destroyed C's property, a pipe owner usually ran up to force him to desist. On the other side, C's role, and that of his kin, was to submit to the property loss, keep their tempers, and if a real disturbance threatened, send the pipe with horses to H as a peace offering. There is some indication that situational factors played a conspicuous part in the kind of prosecution instituted. If the erring couple were caught in *flagrante delicto*; if the grievance were given a large amount of publicity by H or by others; if legitimate compensation were resisted by C and his kin; if the plaintiff had suffered other injustices at the defendant's hands or the latter were known as a troublemaker, then passions flared to dangerous heights. Adulterous affairs right in camp were more stringently dealt with than abscondings, in general. An extremely bitter conflict arose when H and C were full brothers, i.e. an intra-family grievance (18). H killed C in this case, but the adjustment that was usually necessary after such a killing could not be carried out for the family could not be split into opposing factions.

The question of composition for the offense is interesting. In general the amount of the compensation was proportional to the

wealth of the defendant, except that plaintiffs of very high status took very little and those of very low status did not dare exact much. Most cases involved some kind of compensation if personal satisfaction such as lashing or ridiculing had not been sufficient. A regular form was for H to kill stock belonging to the defendant; a less hostile H merely took some horses. If C's relations convened in time, horses were offered before prosecution with or without the pipe as compensation for H's infringed rights. Most cases did involve compensation, and in these W was not often taken back. There seems to have been a general feeling that if compensation has been paid, W ought to go to C. "(Three horses having been paid), W came to C's tipi, expecting him to take her (44)". "C thought he ought to have the woman because his horses had been killed (59)". But in the latter case, and in No. 72, the dominant idea was to *get even with H* for killing horses on mere suspicion of adultery. Compensation should in no way be regarded as payment for the wife. The general feeling was that it was salve for H's injured rights and feelings, and was also designed to let people know that H and C (or C's kin) recognized that there was legitimate grounds for action. If H then wanted to take W back he still had a right to do so. But usually he ignored her. When she did go back to H, it was usually for specific reasons: *onde* magnanimity, special forgiveness during the happy sundance period (44, 45); pathetic pleading by H (50, 74); captive status of H(?) (60). Where there was voluntary compensation, it nearly always came not from C but from C's kin or his society (2, 5, 15, 16, 44, 46). Damages by destroying property fell on C's herd or his kinsmen's (it should not be forgotten that families, especially brothers, usually herded together). A gift was probably always given to the pipe owner, though not necessarily at the time of settlement. W's kin were not involved at all, as a rule, as far as damages were concerned, though they too might make a gift to the Keeper (45).

There was, however, a sex difference in procedure when a plaintiff's kin prosecuted. H, with or without his kinsmen, might attack C's herd. The women of his family, though, embarked on a property raid of their own. Ganging up, armed with butcher knives, the sisters and mothers descended on the household of C's mother or sisters, hacked, chopped and destroyed everything within sight, even to the point of injuring personally some of C's

female relatives. Men did not participate in any way in this raid except to stop it (76, 69). This kind of a property raid was the woman's sole means of legal action in any situation, be it rape, first elopements or absconding. In each of these situations, an outsider had trespassed against one of "their" women, in the last named case merely by extension and, whatever the men did, if the women acted, it was in this manner. The only exception was a sister who cut the adulterous wife's hair (65, 66). These gangs of women never raided W's relatives, for they were not considered involved.

Not only W's relatives, but W herself usually went unprosecuted for infidelity. In spite of the fact that Kiowa in generalizing said the usual thing to do to an unfaithful wife was to cut her nose off, this occurred only three times (28, 36, 47; cf. the rationalization given in No. 63). But if W were caught in the act, she was given a serious beating (2, 37, 38, 47) and once (16) was killed. No. 10 seems to indicate that if C or his kin were not around to settle the injury, W herself had to bear the brunt. The latter case being a particularly bitter affair, W's life was threatened, though we do not know whether H had any real intentions of killing her. There was one other case where W was beaten, No. 51. She took the punishment because her sullen father-in-law was afraid to challenge the high-born C. When she was beaten in these incidents, her kin usually hastened to protect her, as if even under these aggravating circumstances she ought to go unharmed. This is the more interesting because it will be remembered that men had the right to beat their wives for disciplinary purposes when necessary, and this right was frequently exercised. However, as long as no other man challenged the husband's private rights, W was responsible for her own behavior and had to submit to discipline from H. But once there was a co-respondent, H's entire interests and efforts were turned to beat down the rival and W was ignored. Women were not considered entirely responsible for their actions nor competent. It was said, "Women are foolish, and will believe any story which is told to gain their love (11)". These words may also show a tacit understanding of the fact that women were used as means to other ends, and were not in certain situations for themselves loved. In such cases (e.g. 55) it was felt no harm should come to them.

One interesting point is that if a man made advances politely to a

woman, but was politely refused, and the woman told her husband of the incident afterwards, there was no hostility whatsoever on the part of the husband toward the other man. Trouble arose only if the man cast aspersions on the husband, when it became a case of slander. If the woman herself insulted the would-be lover he would probably have her bewitched.

Status

What was probably the crucial point determining the procedure followed in absconding cases, in horse quarrels, and to some extent in the crimes and quarrels we have previously mentioned, was the status, relative and absolute, of the two litigants. This is the point about which the Kiowa, with one exception (58), were not explicit. When they generalized from their experiences about legal procedures, status factors were never mentioned. Nor does the point seem to be a difference between theory and practice, i.e. a theoretical norm of procedure undercut in practice by status. It seems rather that there were explicit and implicit phases of legal procedure. Of the numerous possible ways of acting following a grievance, the offended one knew automatically what was the proper course for him. If he made a mistake, he suffered considerable loss of prestige (2, 4?, 16, 73, 74, 75, 76). This implicit phase was clearly expressed by one Kiowa's penetrating remark during a quarrel with a man of higher status over a horse, "If you mean to bluff me, if you think you can use your power as a war chief (*kietai*), try to take that horse and I'll stop you with my gun" (58). Bringing the cold fact of status as a dominating weapon into the light completely frustrated the illegitimate claims of the higher party. This speaker did recognize the role of status in dispute situations.

Actually, among the Kiowa, there was almost no corner of the culture where status aspects were not important. We have already mentioned that residence after marriage, whether matrilocal or patrilocal, was determined by the relative rank of the two spouses; relative status probably also determined the attitude, whether friendly or hostile, of the women who raided following a maiden's first elopement; high warriors who stirred up trouble suffered less social disabilities than those of the low status, consequently even if they committed murder "did not suffer *taido*" (the super-

natural sanction). At least they were the ones able to purchase "preventatives" or "cures". Often they placed honor above the supernatural and social sanction that followed from refusing a pipe, although only when a pipe was refused four times was the sanction at all rigorous. This attitude among the Kiowa reveals the underlying assumption in these dispute procedures, that actually, a man of the highest status might do as he pleased for no one was in a position to say him nay. Consequently, the only inhibition to arrogant use of this right lay in the internal sanctions of top ranking *onde*. That was why mild behavior was enjoined upon the great warriors and true leaders of the tribe. To assume the role of public peace officer, either voluntarily (55) or at another's behest (2), meant that one had to be able to outface the miscreant personally. In addition, of course, there was the backing of "the law", expressed by public opinion favorable to the action, immunity from *taido*, etc.

From the case histories we are able to see more clearly why certain status criteria were weighted. When a case was fought out between two men without participation of the kin group, war record was the primary factor in determining relative status, and therefore the winning card. In No. 2, Big Bow and Guibwde settled down to a recitation of their war records; in 55, Saondeton performed an unbeatable deed on the spot to triumph over Guibwde.

Whenever opponents were actively supported by their kindred, the greatest display of man power, with due regard to the status of the kinsmen, intimidated and conquered (5, 20, 21, 60). Conflicts between single *onde* plaintiffs and *kawn* did not occur. If a Kiowa had a large family, there would be some warriors in it. Consequently what we usually find is a large family with many able warriors vs. a small family with fewer warriors (5, 19). A brave warrior with no family was weaker than a poor boy with a large family (Cf. 60). At the sundance, a society might strongly back a defendant by paying compensation to the plaintiff but would never prosecute (16, 46).

Relative Status

The nineteen cases (nos. 43 to 61, also 5, 7, 10, 19) concerning disputants of uneven rank illustrate clearly how the legal outcome was largely determined by consideration of rank. In extreme cases,

a very low plaintiff could not prosecute at all, except as a pitiful figure. Kinsei (49) could do nothing when his wife was abducted; another commoner plaintiff ran to hide (51), while a third pleaded humbly for her return (50, 74). The wife herself bore the brunt of the plaintiff's resentment in one case; C did not dare face H, but he could "take it out" on her (10, 51). The attitude was specific in the horse quarrels. In one case the plaintiff intimated to a third person that he would like his stolen horse returned (56), but did not dare claim his own horse in public. One version of 19 (killing of captive in horse quarrel) states that there was a sizable body of the aggrieved kin and, even though numerous, they did not dare prosecute the case. They decided to let the defendant "make the first move." A low defendant's kin, however, mindful of the danger, hastened to offer peaceful tokens, lest they all suffer. The extent to which kin mobilization could go appears in the factional struggle of 5. There is some indication in general that the kindred, though watching developments very closely, did not enter as long as their representative was competent to prosecute alone. They probably prided themselves on a member who could singlehanded defend his honor well.

It seems that, in general, the closer the status levels of the two men, the more violent the prosecution, provided they were not both on the topmost rung. Where the gap in status was not so great, and a defendant found himself with the upper hand, for instance, because the other was caught at a disadvantage, there was a strong tendency to goad and jeer the other (43, 54, 59, 78, 81). Whoever was in a fine position to lord it over someone hoped to impress the public, so made the most of the opportunity. The big Case 47, when a situation was deliberately created by an inferior C gambling on increasing his reputation during the outbursts, was largely a status raising scheme.

To visualize the differences of procedure in different status relationships we need only review the varied behavior of certain Kiowa in different abscondings.

1. Guibwde (2, 55) almost ran amok when he caught his wife with Pwkongyai, a lesser figure, but when the great Saondeton took her right under his nose, he could do nothing.

2. Baitalyi was outfaced by two greater warriors (71, 72) but won out over the lesser opponent Tsadlwote (59), and, by a great

show of force and kindred was able to intimidate the smaller, but honorable, family of Teneizeiptei (5) who had refused the pipe.

3. Emonkiana (62, 79) did absolutely nothing when the well-born Odlpw absconded with his wife Anandwma, but when Kwggu did the same a bitter conflict resulted. In the latter he may have seen a chance to goad, or he may not have wanted to squabble with other onde.

4. Big Bow, highest in the tribe, was married to the most beautiful and apparently fickle woman of the tribe, but he did not always bother to prosecute her abscondings. His only fights were once when (48) a co-respondent refused to give up a horse, and when (36) his sister betrayed his wife's infidelity publicly so that he cut W's nose. When Big Bow was a co-respondent himself, opposing Lone Wolf (54), also a man of some prestige, Big Bow won easily. He was never outfaced in any situation.

Absolute Status

Status in Kiowa life was such that there were semi-formalized attitudes or modes of behavior associated with the semi-formalized statuses, i.e. the "ranks". A man of a given rank tended to act in a way prescribed for his class. These patterns of behavior can be described from the cases, though with some situational modifications.

1. Onde: mild, generous; gracious to women; respectful of the Medicines, i.e. the agencies of law and order; courteous to high and low alike; never making a scene unless resisted illegally, or unless undue publicity were given the affair; never disturbed; the peace; lofty, so that slight insults might pass by unnoticed; very courageous.

2. Ondegupa: touchy, quick to defend honor; rivalrous; seeking to rise at another's expense; apt to prosecute fully; courageous, but now and then outfaced; did not prosecute the equanimous onde characters.

3. Kwon: submissive; they sometimes prosecuted by using sorcery against superiors; immune to insult because little honor to defend.

The entire documentation of cases may be somewhat skewed in distribution through these ranks. There were probably fewer quarrels among the onde because of their proportional number

and their internal sanctions against making a scene, but when they did break out, the incidents were noted and remembered by all. Among the known squabbling was considered rather natural, and no one noticed them at the time nor remembered their cause, especially because the participants were insignificant persons.

Nevertheless, the onde seem to have absconded as much as anyone in the tribe (allowing for the probable skewed distribution of cases). It should not be thought, however, that absconding was an every day occurrence for these men or anyone. For every case of absconding, there were hundreds of men who lived in lifelong happiness and partnership with one or two wives. If an onde absconded at all, he was not likely to trample on the rights of one of his own followers by taking his wife. Abscondings with high ranking co-respondents were not intra-band affairs. Moreover, to commit adultery with a woman of good standing implied a certain eminence, for no woman would consort with a man of low rank unless he were most attractive. To do it in the grand manner, say, right in the husband's tipi, was a risk only a courageous man cared to run. It is likely that all men who absconded with women realized they risked the loss of several horses by destruction or as compensation. This lack of concern over property, the pose being that "they could always get more", was important in the status-raising and status-maintaining goal. Horses were relatively plentiful among the predatory and horse-breeding Kiowa, so it is not surprising that they developed this means for "conspicuous display".

Men of very high status did not prosecute abscondings and other grievances vigorously, if at all. To do this and not be accused of cowardice implied perfect security of position at the top and a superlative war record. The onde plaintiff's attitude towards his erring wife was not one of contempt but of tolerance. "The woman is rather silly to run away from me, but it is not worth making a scene about. After all, I am onde; I can get any woman I want." Old Man Horse (76) in a misplaced endeavor to act in a lofty fashion, demonstrated the point of view. He "decided to do nothing" about W's absconding and insult in order to show her he did not love her. But this was the wrong choice of behavior pattern; especially for a captive with a strong set of foster kin who were eager to build up his reputation, so the kinsmen were

bewildered by his actions. Old Man Horse was probably ridiculed privately for this stand.

It is noteworthy that to a certain extent *onde* sons, even if partially lacking in the necessary validating war record, acted usually in the lofty pattern of behavior suitable to their inherited status (68). This is especially noticeable, of course, after 1872, when wars were prohibited. The ranks existent at that time became crystallized into relative immobility, in contrast to the vertical mobility previously. High rank became an inherited advantage.

The general *onde* pattern was, then, to maintain equanimity and tolerance. But, in any absconding, adultery caught in *flagrante delicto*, or verbal abuse, if legitimate compensation were withheld, or if slander were the cause of the quarrel, mildness in prosecution was not possible. Slander was even wiped out with death, for these accusations, if unchallenged, might have wrecked the confidence that people had in their leader and caused the disintegration of his *topadoga*. His socio-economic position was at stake. It was for this reason that a chief was the more resentful of insult. "His shame was greater", and action therefore more severe. He had more to lose.

A striking point is that very high men, setting out to avenge serious insult, were not even offered pipes to stop action (10, 11). There were two sources for this restraint. One was found in the socio-economic scene based on the competitive *topadoga* system. *Onde* were the men who headed the *topadoga* and were responsible for keeping the peace. They were supposed to practice what they preached. A quarrelsome *topadok'i* was not respected nor trusted (Cf. 1), consequently an *onde* acted mildly lest he lose his following. If an *onde topadok'i* were a plaintiff, action, if any, was taken by the brothers and sisters. They took horses, or cut W's hair, but they did not destroy property.

The other basis for restraint lay in the underlying assumption the Kiowa made concerning men of status: if one were high enough, a man might do as he pleased, provided he did not commit criminal acts. In the latter case his status was no protection against tribal prosecution. Abscondings were private matters, and the *topmost onde* could get away with any women he chose. Consequently, the only curb on these *topmost men* was their own internal sanction, voluntary respect of other men's rights, and their con-

formity in the general desire to maintain peace. In combination with the economic advantage and prestige of being a "great soul", the pressure on *onde* to be tolerant was great, and very effective.

On the *ondegupa* level, i.e. among those of second rank, this pressure for peace was not so great. Lacking the security of possessing a superlative war record, challenges were more resented. The plaintiff felt his personal honor was at stake and so the defendant had to be defeated at all costs. Action to safeguard one's own status was imperative in absconding cases, because absconding was a recognized means of raising position. The defendant who was bent on acquiring status fought back when confronted, and in this case the best man won. Courageous behavior at this time was tremendously impressive to the public, particularly if a man looked his opponent in the eye as the latter shot. The cause of the quarrel, whether women or property, was practically forgotten.

The kindred mobilized where there was a real threat. They were sure to act in behalf of their distinguished adopted captives. Closely matched opponents might indulge in destruction of horses, shaming, ridiculing or lashing the defendant in public, and finally vengeance sought by killing. The pipe might be refused in order to carry out the vow of death.

It is noteworthy that captives could never rise into *onde* status. At most they could be *ondegupa*. Usually they were *kōwn*, and in any case, their strength depended on the support of their kin in time of stress against full bloods. If well-backed, they could even indulge in a little jeering (60), an action otherwise impossible. Captive opponents could prosecute alone (21).

Kōwn behavior has been dealt with in a previous section. They took to their fists if necessary (82) and also could resort to an entirely different procedure, i.e. a horse race, to settle their differences. This means would be entirely unsatisfactory to a warrior, except to settle minor and rather humorous bickerings.

Actually this patterned behavior was so much a part of Kiowa status that behavior in, as well as outcome of, a dispute situation affected and might change the status of the parties as regards their future relations. When Kuitadla (47) acted unconcernedly and looked Setoyoide in the eye while being shot, people were enormously impressed. When he later absconded with the same woman again, and got away with it, people felt that he had raised his rank

to the top. Behavior considered unbecoming to the status of a plaintiff was reflected in the people's negative reactions. These patterns were sufficiently definite in character that the status of the parties could probably often be defined merely from a record of the procedure in the dispute. There was, however, one necessary condition: a man had to be consistent in his behavior, barring of course special circumstances. Gule (63) was singled out as a conspicuous example of consistent generous behavior, so that when he made a supremely noble gesture of forgiveness, he was honored for it. The old Taimé-Keeper, spurred on by his priestly injunctions, was another who was consistently peaceful, and honored for it (4, 37), even when his own son was killed (9). But Baitalyi was so belligerent and touchy that when he tried to be magnanimous it was construed as cowardice (70, 71, 72, 73). Big Bow, who was certainly a tempestuous soul, seems to show the limits to which a personality might stretch the rules of *onde* behavior, yet still maintain prestige. He never failed in such crucial aspects as respect for the agency for peace, the pipe, and also for his kin obligations (67). In the only time he burst out at his wife, the special circumstances were clear (36), otherwise he was tolerant of his wives (65, 66). Unwarranted suspicions he greatly resented and prosecuted (54).

Conclusions

Where status differences are fundamental, the various adjustments of human behavior in any society cannot be unaffected by them. It makes no difference what comprises status. In some very simple societies, it consists of sheer quantity of kindred who put in appearance to intimidate the other side. Elsewhere those who most carefully fulfill the obligations required toward other kin are the ones of highest station. The most common components in the world are wealth and hereditary standing. Here on the Plains status was basically determined by the war-economic complex, with the addition of such factors as size of kindred, medicine powers, etc. The Kiowa like other Plains tribes, emphasized status differences in every situation. It is not surprising that their patterns of justice were strongly conditioned by this preoccupation.

VII. PROPERTY QUARRELS

The only thing valued in Kiowa life as private property about which quarrels occurred was the horse. A strong sense of private ownership prevailed with individual rights recognized within the family. Difficulties over horses were almost always private matters. Of course if a man had such a large herd that an undue share of water and grass were consumed, this was resented by the people, but largely because he was so stingy in not giving the horses away. Because of the value of horses for use and as symbols of wealth, quarrels of great bitterness arose occasionally. Sometimes owners of different herds quarreled over the actions of stallions. This difficulty did not arise within the family usually because brothers herded together. However the strong sense of private ownership ran counter to the general feeling that possessions and commodities, though not communally owned really, were for the free use of all the kindred. The following tragic case illustrates this cross-current.

Case 86

G—Guikongia, older brother.

T—Tedlyiete, younger brother.

T had borrowed his older brother's horse when breaking camp and raced it. G waited up for him that night. When finally T came in and unsaddled, he asked, "Where are the other horses?" G answered sarcastically, "Your horse is not tired. Why did you bring him back so soon? Why don't you run him a little through the camp?" T wanted to take it to the herd, but the brother said not to. However, T rode off, found the herd, and returned a-foot. He went to his tipi and dressed up. G and his wife were outside his tipi, and the side was raised, so T addressed his brother: "Brother, I thought you loved me, but I see you love the horse more. When I am gone you can take that horse for a brother." Then he shot himself through the heart. The older brother cried out and ran into the tipi. "It is too bad you did this!" he cried. But the lad was dead. "There had been no previous trouble between the two."

Analysis: The harsh criticism of a younger brother by his older brother for using and supposedly maltreating the latter's horse drove the younger to suicide. This case has other aspects of the greatest importance in considering sanctions in general. The main point is that rejection by a brother, supposedly the most affectionate of kin, was intolerable. Life without warm and understanding kin might as well not continue. The horse quarrel was only the situation wherein the older brother's attitude, the real reason for suicide, was expressed. It will be noted that the names of the two characters are the same as those in Case 18. Each case stands on its own feet in illustrating significant points, so may be considered two different stories, although it is possible they are one and the same.

Case 87

Hwmpeda's mother was dead, but he had a stepmother whose son, Zebaedl (half-brother to Hwmpeda) was older than he, and very stingy. In preparation for a move from Rainy Mountain to Elk Creek, he was riding his brother's married daughter's grey horse. When the horse was brought into camp, Zebaedl said, "Turn that horse loose! Why are you riding it? Go get another horse!" Hwmpeda came out, saw the horse gone, and returned to his tipi very angry. He went to Zebaedl's tipi and stood outside and called him: "If it were your horse and you had objected it would have been all right, but you have objected to the use of a horse that was not even yours!" Then he called to his stepmother: "I thought you were my mother, but now I see I have none; she has been dead a long time. Since you are not my mother and she has left me, I am going to see my own mother!" So he went to his own tipi, put on his best clothes as if he were going on the war path, and shot himself with a pistol outside his tipi. "This was the reason for the suicide. There had been no previous quarrel between the two, for they had helped each other as brothers."

Analysis: The real reason for the suicide was the unbrotherly hard criticism, practically an accusation of stealing, with no support at all from the stepmother. Panic over this feeling of isolation and lack of backing by one's kinsmen, supposedly a person's infallible support, drove Hwmpeda to suicide. The case also illustrates the extent of private ownership. Horses were in no way semi-public property, even within the kindred. It was up to the owner—in this case a woman—to refuse permission to use the horse. Of course, Hwmpeda's angry words were a ration-

alization on the spot for his subsequent actions and did not describe the true situation.

Taking horses without permission was considered real stealing. It was said that if any kinsman, child or not, stole or took a horse without permission, one waited till he returned it, then censured him lightly. If an adult non-kinsman took the horse, one went to get it immediately. A non-kin child would be thrashed. We have already presented four important cases (56, 57, 58, 61) of horse quarrels, showing that status considerations modified this statement: low ranking owners could not claim a horse directly from a thief of superior status. A high ranking child, especially an *ode* child, probably was less severely punished by an outsider than a ragamuffin thief. However, those of the very lowest, or *dapom*, ranks were considered hopeless cases. If they stole anything people just said, "What can you expect?", and tolerated them as unavoidable nuisances without invoking any very severe sanctions. The following case, all too briefly recorded, shows another quarrel between persons of disparate rank.

Case 88

O—Onde, *Kweteibwetei*, a war chief (*kietai*) and later *topadok'i*.

K—*Kwon*, Kuyoote, father of Jim Kuito, the informant (Cf. 44, 57); probably a captive.

O ran amok and shot two of K's horses. K shot O in the leg. The fight was suppressed by bystanders. Neither's rank was affected by this action.

Analysis: Since a fight threatened, it would seem that K turned on O for shooting at him, a very imprudent thing for a *kwon* to do. Pressure for peace saved the day.

Disputes over horses were very likely to arise on a war party. A horse taken on a raid had to be handed over to the leader for distribution. As a matter of fact, this custom was not very well established, and conflicted with a feeling that the horse was the property of him who took it or saw it first. This conflict was probably a result of a shift in the organization of the war party which occurred when raiding parties against whites in Texas grew more and more profitable and business-like, and had to depend more on planned strategy with specialization of function

of the members as a result. On a war party when military discipline was in effect, quarrels were not tolerated by the leader. If they arose, he settled them personally.

Case 89

On a war party of which Dohaate was the leader, Tset'einte brought in a horse. Dohaate demanded it, as was his right as leader. Tset'einte was angry, and rather than give it up, shot the horse dead, saying, "Here, Grandmother, is a horse for you."

Analysis: The case illustrates jurisdictional conflict of claims over a horse. Shooting a horse rather than lose it in a dispute was a common solution (Cf. 24, 39, 40) and did usually stop a quarrel (Cf. 19). No third party would ever shoot a horse in the interests of peace, though. However, Tset'einte offered "his" horse at its moment of killing to the Ten Medicines (Grandmother) as a gift, an effective means of settling the argument and ensuring supernatural benefits to himself and his kin alone. No one would dare reopen a discussion about, nor cavil at, a sacrifice to the Bundles.

Case 90

Black Bear had seen two horses first on the night of a war raid, so he really had the first choice. Little Chief wanted the lighter-colored horse, and in the night Black Bear had seemed to agree to this division of spoils. But in the daytime it was discovered that this horse was really the best of the two. They disputed about this the next day, and all the way home the quarrel waxed. Little Chief did not want to give the horse up, and insisted on his rights. The war leader said, "We came for revenge, not to quarrel over horses," so the matter was "left at that," Little Chief keeping the lighter horse.

Analysis: Horses were divided at the time of capture. If the leader did not distribute them, the first to see them had the right of choice. It was up to the war leader to enforce peace on the war path, so the quarrelers accepted his injunction.

The only two cases of property disputes within kindred over inheritance disturbance are as follows:

Case 91

There were three brothers: Kickingbird (eldest) (Cf. 3, 4, 47), Zebai, Kwgu (youngest) (Cf. 3, 79). Kickingbird was very wealthy and had

three wives. He died intestate. As the next oldest brother, Zebai should have administered the property, but Kōgu, a selfish and aggressive man, appropriated the position and took all the property for himself. He gave nothing to Zebai or to the three widows. By a deceased wife, Kickingbird had a daughter who was an *ōde* child. Kōgu did not recognize her rights. Zebai took care of her. Finally Zebai went to Kōgu and said, "Now, Kōgu, I don't want to fight over this property with you, but I want you to give this *ōde* girl some horses. As for myself, I will not fight for my rights." Zebai then went to the herd and took some horses for the girl. Kōgu said nothing and "did not loosen up any. He was so mean he did not even kill a horse over Kickingbird's grave." About ten years later Kōgu died. Zebai took over the property. He gave Kōgu's widow twenty horses. The *ōde* girl was now dead.

Case 92

Hōnimiidw and Dohwote, brothers of very high rank, had accumulated a large herd of horses through lucrative raiding. They had always presented their spoils to their mother. Thus the mother owned the whole herd of horses. When she died Hōnimiidw came and took the whole herd of horses without consulting his brother. Dohwote did not object. They didn't have "close relations" after that. But they didn't have an open quarrel "because they were brothers. It would have been a disgrace if such a thing got out. High status especially keeps differences quiet."

Analysis of 91 and 92: Disputes over inheritance of horses were apparently rare and never disruptive, which is interesting in view of the great valuation put upon the stock. *ōde* children enjoyed special privileges. A jointly built up herd ought to have been jointly owned.

Summary

Attitudes towards horses as to acquisition and ownership ran counter to some rather well established Kiowa notions, consequently very bitter quarrels arose. This may reflect the serious "growing pains" going on in Kiowa life as they assimilated the relatively new abundance of horses which developed because of American settlers in Texas. It is remarkable that problems of inheritance, now suddenly a major item, were not more conspicuous.

VIII. FINAL SUMMARY

The emphases of Kiowa cases at law differ considerably from ours. There were relatively few conflicts about property other than horses. For instance, food was never a source of conflict. It was given for the asking not only to those who, because of physical disabilities, could not provide for themselves, but even to lazy persons. The means of subsistence were always open to every one. No one was ever deprived of these as punishment for anti-social behavior. Stealing was very rare. Since personal possessions were for private use and were known by sight, they could not very well be used by the thief. Holy paraphernalia, of course, were never touched for fear of terrific supernatural repercussions.

Quarrels within the family were rare and were kept down as much as possible. When a gambler bet all of a relative's property and lost, hard feelings might continue for a while. But inasmuch as kin as a rule were warm, friendly people, disputes with them tended to die down. Disputes outside the family were more apt to be carried on heatedly.

The criminal cases, so defined because they incurred a tribal reaction expressed by a sanction either supernatural, social, or both, were quite diverse. Treason and incest were rare phenomena, slander and sacrilege somewhat less so. Real disturbances of the peace and killings in the course of quarrels occurred occasionally, but in comparison with the total number of adjustments to be made, very few conflicts ever reached such serious proportions.

The supernatural sanction *taido* brought it about that a miscreant was perpetually pursued by bad luck which might ultimately bring on his death. It is likely that such a person, known to have this ill luck, would be, unconsciously or not, shunned, so that *taido* actually involved a real social sanction. Purely social sanctions for criminal actions comprised disciplinary measures by the societies, by headmen, by a group of women, or people in general even up to inflicting the death penalty. If a society were called on to invoke this supreme sanc-

tion, it "legalized" its procedure by singing a song. The actual "sheriff", i.e. he who actually shot or speared someone in the interests of the tribe, suffered *no* supernatural penalty such as ordinarily followed the taking of human life. This immunity from taido in certain cases is construed as the internal proof that some deaths were considered socially desirable. Sanctions on these crimes were applied without regard to the status of the participants. A few arrogant natures perpetrated murders and did not suffer any repercussion. In these cases if the possibility of a legal death penalty is eliminated, it appears that those of wealth, war record, and high status avoided taido, while plain people could not. At least their secular power was such that they could be successful without supernatural backing, which really implies their status was above ordinary social sanctions.

Quarrels between affinals, usually very bitter, arose because of unnecessarily severe discipline of a wife by her H, or general maltreatment. Since W's kin did not give up their right to protect and discipline her after her marriage, their interference was a potential source of trouble to a H, who also had protective and disciplinary rights over W. Violated downhill relationships were also a source of conflict. W's kin might even go so far as to break up the marriage by bringing W home to stay. Kindred played an important part here: without them as go-betweens and helpers, H could not get W back, and not always then. Since affinal groups were generally on an equal footing, a pipe was very often necessary to stop the quarrel.

In the levirate cases, the deceased husband's rights were inherited in rather dilute form by his brother. HB had an option on W, if he chose to take her (which he usually did). But W was in no way forced to marry HB, and might remain a widow or marry another as she chose. Although the cases here are properly a subdivision of absconding cases, HB did not prosecute as severely as an H because of W's relative freedom of choice.

Absconding was the big source of trouble among the Kiowa. Three-fifths (62) of all the cases available, published and unpublished (104) deal with this grievance. Its preponderance is accounted for by the fact that absconding and adultery were recognized means to a number of different ends, such as disciplining, status-raising, divorcing, etc. Outcome of these situations was

largely dependent on the relative status of the opponents, with the higher of the two having his way.

Certain absolute status levels required behavior of a certain type. Onde, for instance, had to be mild-mannered, even if antagonized, and consistency in observing this pattern enhanced their prestige. Deviations from procedure proper to the status level and the circumstances incurred ridicule and loss of prestige. Status also played a determining role in the outcome of some of the horse quarrels mentioned above.

In every Kiowa conflict situation there were many forces at work to resolve and settle and pacify. First of all there were the primary peace restoring institutions, the Ten Medicine pipes and the Taime pipe, with Keepers whose tipis were sanctuary. Then, when the whole tribe was together, and organizational and control problems were at a maximum, the societies, headed by the most eminent men in the tribe, were available as a police arm to settle disturbances at the Taime Keeper's behest. The society of a guilty man itself often took the initiative to assuage an angry plaintiff by sending the latter gifts and the pipe in order to forestall vengeance against one of their members. Besides, *topadok'i* and war party leaders devoted themselves to restoring peace, never to aggravating a situation by fighting themselves. There was voluntary composition for a crime which obviated many retaliatory shootings. Horses might be offered (with or without a pipe) by the defendant's kin, or the plaintiff might satisfy himself by taking or destroying horses of his opponent and the latter's kin, a form of involuntary compensation. There were the tolerant patterns enjoined on those of high status, which if consistently observed, finally became a status raising mechanism in itself. The internal sanctions which supported mild behavior in the face of antagonism arose first from political and economic necessity, and secondly from the fact that since high status largely had its own way in Kiowa justice, the only overseer to an onde's moral actions was himself. One of the most diffuse yet important forces for peace was the general popular desire for peace. Aggrieved kinsmen, when convened to decide what to do, sometimes advised against doing anything; as defendants they usually hastened to make conciliatory overtures, and submitted in case of retaliatory attack. Capitulation before opponents superior because of personal achieve-

ment or kin strength undoubtedly diminished the number of factional struggles when two families did mobilize to "fight it out". Fear of supernatural ill-luck (*taido*) from killing, from using sorcery, from mishandling holy paraphernalia was a conscious deterrent from criminal actions, and this fear was in force all year. Informal and diffuse as some of these mechanisms were, they were responsible in large measure for the fact that life within the Kiowa tribe was usually peaceful and well-ordered.

On the other hand, there was strong pressure in certain situations to prosecute. Women ganged up on a chronic raper; slander was always intolerable; some men deliberately created situations to teach so-and-so a lesson; honor had to be defended so much that the pipe was refused. Between these two opposing pressures, Kiowa adjustments were made.

One of the most striking aspects of Kiowa legal institutions was the use of the Ten Medicine pipes. The pipe oath was held in great respect, only two cases of violation being reported. Kindred brought great pressure to bear against violating an oath, not only because it would weaken the most important formal agency for compelling order, but because they would all suffer the automatic supernatural repercussion of death to one of the number if it were violated. Refusing a pipe once did not seem to incur any serious bad luck, but a great deal of social pressure was immediately exerted to get the aggrieved to abandon his idea of revenge. If refused four times, there was a strong supernatural reaction resulting ultimately in death. Smoking the pipe ensured peace without loss of face to the aggrieved. It was offered only to him who was likely to take action. Often a Keeper offered his pipe to stop a fight before he ever had time to find out the details of the quarrel. There was no necessity of a fact-finding body before peace was restored, except in No. 23. At the time of smoking it was specifically stated that a plaintiff could name the compensation he would accept, but this did not often occur. There are no cases of protests over these stipulations reported, nor any case of demanding more than was voluntarily offered, not even in cases where the pipe was refused.

It is noticeable that the pipe was not always used. In some cases this was undoubtedly because no Keeper was around; or, the quarrel might not have been serious enough; or plain people

forcibly separated the fighters until their tempers cooled off. Where no revenge was possible or contemplated, it was not necessary at all. It seems to have been used (a) in those cases where a low-ranking defendant, backed by kin, faced a high ranking plaintiff with kin mobilized menacingly for action (25?, 44, 76); or (b) where individuals of equal status, usually backed by kin, seemed to be preparing to fight it out with great disruption of the tribe threatening (2, 4, 5, 10, 11, 15?, 16, 32, 33, 36, 37, 45, 57, 79). There is no case of its use within the small family because in it there was no retaliating faction. It was used between distant kindred (15). It probably was used within the topadoga if the topadok'i were not around, or if a pipe Keeper got on the scene first, whether the opponents living in the topadoga were related or not. Its usual use was in inter-band disputes.

It is clear that the mildness enjoined on Keepers was not observed when they felt honor had been sullied. *Twkoide* and *Guibwde* consistently acted violently. Sometimes a Keeper jumped into the line of battle in behalf of a brother's honor (37). Two Keepers got into a terrific fight, forgetting not only their priestly injunctions, but that they stood in the respected relationship of father-in-law—son-in-law (35). The rule of chastity for the Keepers' wives was not so often broken (69). Inasmuch as the supposed pattern of a Keeper's behavior resembled and overlapped that of *onde*, it is often impossible to tell whether Keepers acted restrainedly because they were Keepers or because they were *onde*.

Another very important aspect in the legal settlements that has been referred to time and again is the role of the kin in defending and pleading and paying "fines". If a kinsman, especially mother's brother or sister's son, made a request, it had to be granted (2, 67). Their reproof (16, 23, 32, 86, 87) was highly effective—too much so in the last two cases. The sway of relatives over a man was held to be such that the pipe could be offered to a brother or father in order to compel peace on an obstinate plaintiff (2, 16). Kinsmen were also liable to attack if the real offender were not around (59, 68, et al.).

Problems of law may well be studied in another culture by observing procedure where there are conflicts, disputes, grievances and adjustments to be made. If law were conceived as applicable only to those situations where organized sanctions dependent on a

centralized authority are invoked, and on this basis one were to try to define civil law vs. public law, many of our cases would be only partially understood. Properly speaking, our dividing line is arbitrary. The study should be continued over the whole field of social control, to include sanctions in general, like the calling out of disciplinary warnings in the Kiowa camp at night and gentle pressures within the family. Throughout the entire investigation, status considerations should be kept in mind. They were omnipresent even within the Kiowa family; for instance, there are absolute status differences between older and younger; wide child vs. non-wide; boys vs. girls; captive vs. full blood. These differences are sure to condition intra-family control mechanisms. The source of legal difficulties varies from culture to culture, but one may start out by investigating attitudes, adjustments, and procedures concerning such matters as preservation or killing of human life, sex rights, property rights, cooperation for public peace, agreements, truth telling, slander, treason, incest, etc. These problems arose all during the year in the Plains, not just when the societies were in formation. Some of them will arise in cultures where there are no military societies, nor any central authority.

Law among the Kiowa was not very institutionalized, but even here procedures turned out to be remarkably consistent, once the clues were discovered. Unformalized law is not "undeveloped", for law is where it is found, and may be institutionalized or not, with a large choice of procedures or few, saturated with religious conceptions or not. "High" and "low", or "germinal" and "developed", are dangerous terms in cross-cultural comparisons. It is hoped that before definitive statements are made on primitive law that detailed studies based on case histories may be made for other tribes of the Plains and other aboriginal groups.

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